

## TENTH MEETING OF THE CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY: 18-29 OCTOBER 2010

The tenth meeting of the Conference of the Parties (COP 10) to the Convention on Biological Diversity (CBD) opens today in Nagoya, Japan, following the fifth Meeting of the Parties (COP/MOP 5) to the Cartagena Protocol on Biosafety (11-15 October 2010), the meeting of the Interregional Negotiating Group (ING) on access and benefit-sharing (ABS) (13-16 October 2010) and the second resumed ninth meeting of the *Ad Hoc* Open-ended Working Group on ABS (16 October 2010).

During this two-week meeting, the COP will consider a series of strategic, substantive, administrative and budgetary issues. Among several items, the meeting is expected to adopt an international protocol on ABS; assess achievement of the target to reduce significantly the current rate of biodiversity loss by 2010; adopt a new strategic plan and a multi-year programme of work for the Convention; consider issues related to cooperation with other conventions, organizations and initiatives; and address substantive issues, including on marine and coastal biodiversity, biodiversity and climate change, forest biodiversity, biofuels, and Article 8(j) (traditional knowledge).

A series of meetings and events will be held concurrently with CBD COP 10, including: the Rio Conventions' Ecosystems and Climate Change Pavilion, the fair on experiences and best practices in communication, education and public awareness, and more than 300 side-events (18-29 October 2010); the City Biodiversity Summit (24-26 October 2010); the Parliamentarians and biodiversity meeting (25-26 October 2010); and the COP 10 High-level segment (27-29 October 2010).

### A BRIEF HISTORY OF THE CBD

The CBD was adopted on 22 May 1992, and entered into force on 29 December 1993. There are currently 193 parties to the Convention, which aims to promote the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources. The COP is the governing body of the Convention.

**COP 1:** At its first meeting (November - December 1994, Nassau, the Bahamas), the COP set the general framework for the Convention's implementation, by establishing the Clearing House Mechanism (CHM) and the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA), and by designating the Global Environment Facility (GEF) as the interim financial mechanism.

**COP 2:** At its second meeting (November 1995, Jakarta, Indonesia), the COP adopted a decision on marine and coastal biodiversity (the Jakarta Mandate) and established the Open-

ended *Ad Hoc* Working Group on Biosafety to elaborate a protocol on biosafety, specifically focusing on transboundary movement of living modified organisms (LMOs) that may have an adverse effect on biodiversity.

**COP 3:** At its third meeting (November 1996, Buenos Aires, Argentina), the COP adopted work programmes on agricultural and forest biodiversity, as well as a Memorandum of Understanding with the GEF, and called for an intersessional workshop on Article 8(j) and related provisions.

**COP 4:** At its fourth meeting (May 1998, Bratislava, Slovakia), the COP established a Working Group on Article 8(j) and a panel of experts on ABS, and adopted the Global Taxonomy Initiative (GTI) and a work programme on marine and coastal biodiversity, as well as decisions on: inland water, agricultural and forest biodiversity, and cooperation with other agreements.

**EXCOP:** Following six meetings of the Biosafety Working Group between 1996 and 1999, delegates at the first Extraordinary Meeting of the COP (ExCOP) (February 1999, Cartagena, Colombia) did not agree on a compromise package to finalize negotiations on a biosafety protocol, and the meeting was suspended. The resumed ExCOP (January 2000, Montreal, Canada) adopted the Cartagena Protocol on Biosafety, and established the Intergovernmental Committee for the Cartagena Protocol on Biosafety to undertake preparations for COP/MOP 1. The Protocol addresses the safe transfer, handling and use of LMOs that may have an adverse effect on biodiversity, taking into account human health, with a specific focus on transboundary movements.

**COP 5:** At its fifth meeting (May 2000, Nairobi, Kenya), the COP reviewed the work programme on agricultural biodiversity, established an ABS Working Group, and adopted work programmes on dry and sub-humid lands, and incentive measures, and decisions on Article 8(j), the ecosystem approach, sustainable use, biodiversity and tourism, invasive alien species (IAS) and the GTI.

**COP 6:** At its sixth meeting (April 2002, The Hague, the Netherlands), the COP adopted the Convention's Strategic Plan, including the target to reduce significantly the rate of biodiversity loss by 2010. The meeting also adopted: an expanded work programme on forest biodiversity; the Bonn Guidelines on ABS; guiding principles for IAS; the Global Strategy for Plant Conservation; a work programme for the GTI; and decisions on incentive measures and Article 8(j).

**COP 7:** At its seventh meeting (February 2004, Kuala Lumpur, Malaysia), the COP adopted work programmes on mountain biodiversity, protected areas (PAs), and technology transfer and cooperation, and mandated the ABS Working Group to initiate negotiations on an international regime on ABS. The COP established the *Ad Hoc* Open-ended Working

Group on Review of Implementation, and adopted: a decision to review implementation of the Convention, its Strategic Plan and progress towards achieving the 2010 target; the Akwé: Kon Guidelines for cultural, environmental and social impact assessments; the Addis Ababa Principles and Guidelines for sustainable use; and decisions on communication, education and public awareness (CEPA), incentive measures, inland waters, and marine and coastal biodiversity.

**COP 8:** At its eighth meeting (March 2006, Curitiba, Brazil), the COP adopted a work programme on island biodiversity and decisions on a range of issues including Article 8(j), CEPA, cooperation with other conventions and private sector engagement, PAs, including high seas PAs, incentive measures, biodiversity and climate change, and forest, marine and coastal, and agricultural biodiversity. COP 8 reaffirmed the COP 5 ban on the field testing of genetic use restriction technologies, and instructed the ABS Working Group to complete its work with regard to an international regime on ABS at the earliest possible time before COP 10, to be held in 2010.

**COP 9:** At its ninth meeting (May 2008, Bonn, Germany), the COP adopted a roadmap for the negotiation of the international ABS regime before the 2010 deadline for completion of negotiations, a Resource Mobilization Strategy for the Convention, and scientific criteria and guidance for marine areas in need of protection; and established an *ad hoc* technical expert group (AHTEG) on biodiversity and climate change.

### INTERSESSIONAL HIGHLIGHTS

**ABS NEGOTIATIONS:** The ABS Working Group met four times to negotiate the international ABS regime (April 2009, Paris, France; November 2009, Montreal, Canada; March 2010, Cali, Colombia; and July 2010, Montreal), assisted by expert, informal and regional consultations. During the first two meetings, delegates worked on consolidating a draft. In Cali, the Working Group Co-Chairs circulated a draft protocol text, but due to procedural wrangling the meeting was suspended. The resumed meeting in Montreal, using the ING format established in Cali, worked in good spirit on the draft protocol text, reached agreement on non-controversial provisions, and made progress on certain difficult issues, including the relationship with other instruments and compliance with domestic ABS requirements. Delegates also identified key issues that require further compromises, including scope and pathogens, derivatives and the concept of utilization of genetic resources, and mechanisms to support compliance. With several sets of brackets remaining, the Working Group held an additional meeting of the ING, which convened in September 2010, in Montreal. While the meeting achieved some progress towards an improved common understanding on derivatives and the concept of utilization, key issues remained outstanding.

**ARTICLE 8(J) WG 6:** At its sixth meeting (November 2009, Montreal, Canada), the Working Group on Article 8(j) adopted a series of recommendations, including an advanced draft of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities, and transmitted detailed views on the international ABS regime to the ABS Working Group.

**GEF 5:** The fifth replenishment process of the Global Environment Facility (GEF) progressed through six meetings convened during 2009 and 2010, when participants discussed the Fourth Overall Performance Study of the GEF, the programming approach for GEF 5, policy recommendations, and financial arrangements and burden-sharing. Negotiations were concluded on 12 May 2010, the total contributions resulting in a 52.5% increase in new resources available to the GEF. In the case of biodiversity, funding will increase from \$941 million in GEF 4 to \$1.21 billion in GEF 5, an increase of about 29% for biodiversity.

**SBSTTA 14:** The 14th meeting of SBSTTA (May 2010, Nairobi, Kenya) witnessed the launch of the third edition of the Global Biodiversity Outlook and adopted 18 recommendations to COP 10, including on: in-depth reviews of implementation

of work programmes on mountain, inland waters and marine and coastal biodiversity, PAs, biodiversity and climate change, and Article 10 (sustainable use); agricultural biodiversity and biofuels; dry and sub-humid lands; forest biodiversity; IAS; post-2010 outcome-oriented goals and targets; incentive measures; the GTA; and the Global Strategy for Plant Conservation.

**WGRI 3:** The third meeting of the CBD Working Group on Review of Implementation of the Convention (WGRI) (May 2010, Nairobi), adopted 12 recommendations to COP 10, including: an updated and revised strategic plan for the post-2010 period, which remains bracketed pending resolution of financial issues and negotiations on ABS; a proposed UN decade on biodiversity 2011-2020; business engagement; a proposed biodiversity technology initiative; the multi-year programme of work of the Convention for the period 2011-2020; integration of biodiversity into poverty eradication and development; and a science-policy interface on biodiversity, ecosystem services and human well being.

**IPBES:** Following two meetings (November 2008, Putrajaya, Malaysia; and October 2009, Nairobi, Kenya), the third *ad hoc* intergovernmental and multi-stakeholder meeting on an intergovernmental science-policy platform on biodiversity and ecosystem services (IPBES) (June 2010, Busan, Republic of Korea) concluded that such a platform should be established and reached agreement on its main elements, recommending that it would collaborate with existing initiatives on biodiversity and ecosystem services and be scientifically independent. The meeting also recommended that the UN General Assembly be invited to consider its conclusions and take appropriate action for the establishment of the platform.

**CONFERENCE ON CULTURAL AND BIOLOGICAL DIVERSITY:** Organized in collaboration with UNESCO, the International Conference on Cultural and Biological Diversity for Development adopted a declaration on bio-cultural diversity and a proposed joint programme between the CBD Secretariat and UNESCO on the links between biological and cultural diversity.

**UNGA HIGH-LEVEL MEETING ON BIODIVERSITY:** A contribution to the International Year of Biodiversity, the high-level meeting of the UN General Assembly (22 September 2010) included a general discussion and thematic panels on the way forward in achieving the three CBD objectives and the internationally agreed biodiversity goals and targets. Participants highlighted, among others: the need for political impetus and flexibility in the negotiations on a draft protocol on ABS; the opportunity to adopt an ambitious post-2010 strategic plan; and the importance of creating an IPBES.

### REPORT OF THE ABS NEGOTIATIONS

The ING met from 13-16 October 2010 to continue negotiations on a draft protocol on ABS. The second resumed ninth meeting of the Working Group on ABS was held in the afternoon of 16 October, to approve the ING outcome and forward it to the COP.

### INTERREGIONAL NEGOTIATING GROUP

The ING developed consensus language on several provisions of the draft protocol contained in the report of its meeting held from 18-21 September 2010, in Montreal, Canada (UNEP/CBD/WG-ABS/9/ING/1). With regard to issues of major controversy, including derivatives and the concept of utilization, compliance and pathogens, delegates held in-depth discussions in small groups, in preparation for further negotiations during the COP.

This section outlines discussions and outcomes on cross-cutting issues and protocol provisions addressed during the ING negotiations.

**PREAMBLE:** Delegates discussed the preamble without making much progress. Several preambular clauses remain bracketed.

**DERIVATIVES:** Building on prior Working Group and ING deliberations and following discussions in a small group, delegates noted emerging consensus on the concept of genetic resource utilization and benefit-sharing from derivatives under

article 4 of the draft protocol. An area of disagreement was identified with regard to the conditions for access to derivatives under article 5, and specifically whether prior informed consent (PIC) would be required for access to derivatives not containing functional units of heredity, such as biochemical compounds. Discussions are expected to continue during the COP.

**PATHOGENS:** The issue was discussed in a small group and then in informal consultations. On Saturday, 16 October, facilitator Paulino Franco de Carvalho Neto (Brazil) reported to the ING that consultations continue on the basis of draft text to be placed under article 6 on emergency situations. The text states that parties shall take into consideration the need for simplified measures on access in case of emergencies or other circumstances of extreme urgency regarding public health and food security that would cause serious damage or threat to biodiversity and, in this respect, pay due regard to rules, procedures and practices established under relevant organizations and conventions, such as the World Animal Health Organization, the International Plant Protection Convention or the World Health Organization. Discussions are expected to continue during the COP.

**ACCESS TO TK ASSOCIATED WITH GENETIC RESOURCES (ARTICLE 5 BIS):** Following informal consultations, delegates accepted clean language stating that, in accordance with domestic law, parties shall take measures, as appropriate, with the aim of ensuring that traditional knowledge (TK) associated with genetic resources that is held by ILCs is accessed with the PIC or approval and involvement of these indigenous and local communities (ILCs), and that MAT have been established. An ILC representative considered agreement on such language a major step forward, but put on record ILCs' disagreement with deletion of a bracketed reference to the UN Declaration on the Rights of Indigenous Peoples. He further noted concern about the reference to domestic law, but said ILCs could accept it.

During the resumed Working Group session held on Saturday afternoon, an ILC representative, speaking on behalf of seven indigenous organizations from North America, noted they had not been consulted and they are not in agreement with the proposed text.

Other provisions remained bracketed for consideration at a later stage, namely on: parties taking measures to ensure that TK within their jurisdiction has been accessed and utilized in accordance to paragraph 1; parties' measures addressing situations of non-compliance; and cooperation in cases of alleged violations.

**TRADITIONAL KNOWLEDGE (ARTICLE 9):** Delegates discussed whether parties shall take into consideration community-level procedures, including customary laws of ILCs, or ILCs laws, community protocols, procedures and/or customary laws, without reaching consensus. Delegates also addressed the cross-cutting issue of whether to refer to associated TK or TK associated with genetic resources, and agreed to refer to TK associated with genetic resources throughout the protocol.

A lengthy discussion was held on benefit-sharing from publicly available TK. Some parties requested deleting the paragraph, others supported "requiring" sharing of benefits while others called for "encouraging" benefit-sharing. Co-Chair Fernando Casas (Colombia) proposed that parties shall encourage the users of publicly available TK associated with genetic resources to take reasonable measures to enter into benefit-sharing arrangements with the holders of such knowledge. One party suggested specifying that such TK has been lawfully obtained by the user from a source other than an ILC. A proposal to include language stating that the first COP/MOP review shall assess implementation of this obligation in the light of international developments, in particular work in the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization, was strongly opposed and not reflected in the text.

**ABS CLEARING HOUSE (ARTICLE 11):** Delegates agreed to a reference to the protection of confidential information and removed related brackets. They deleted requirements to make available to the ABS Clearing House information on any bilateral, regional or multilateral agreements or arrangements, and details of MAT. They also agreed to delete a bracketed reference to submitting information regarding community and customary laws or community-level procedures, and refer instead to information regarding relevant competent authorities of ILCs. The only outstanding provision refers to information regarding PIC decisions.

The article provides for the establishment of an ABS Clearing House as part of the Clearing-House Mechanism of the Convention. It also provides for the information that each party shall make available, and for examples of additional information, if available and as appropriate.

**MONITORING (ARTICLE 13):** Delegates addressed the compliance-related provisions of article 13 both in the ING and in a small group. Discussions focused on the legal nature of measures to support compliance, such as checkpoints; the measures' objective; and the international certificate of compliance.

**Checkpoints:** Delegates debated whether establishment of checkpoints should be made mandatory, as supported by developing countries, or be left to parties' discretion, as generally suggested by developed countries; whether or not to include a list of checkpoints; and whether such list should be mandatory or indicative. They also discussed possible compromise solutions, including a general mandatory requirement for establishment of checkpoints accompanied by an indicative list allowing for flexibility for parties.

With regard to the measures' objective, delegates discussed whether measures should be linked to supporting compliance or also to enhancing transparency. Some developed countries stressed the need for language on transparency to ensure clarity about parties' obligations, while developing countries argued that reference to transparency would dilute the provision's focus on compliance, proposing to address transparency under a different provision. The small group then held an in-depth discussion on the issue of, and draft list of checkpoints, considering them in terms of functionality and effectiveness. Discussions are expected to continue.

**Certificate:** Following a conceptual discussion, participants in the small group acknowledged the need for an internationally recognized certificate of compliance but said that time was insufficient to address the minimum information to be contained in it. On the basis of text proposed by the small group Co-Chairs Alejandro Lago (Spain) and Sem Shikongo (Namibia), they reached agreement on some language on the certificate under article 13, as well as under article 5 (access to genetic resources). Co-Chair Shikongo reported on productive discussions and constructive atmosphere. Discussions are expected to continue.

**MODEL CONTRACTUAL CLAUSES (ARTICLE 15):** Following withdrawal of a proposal to refer to development of clauses in collaboration with international and regional organizations, delegates approved the provision with no remaining brackets. The provision states that parties shall encourage, as appropriate, the development, update and use of sectoral and cross-sectoral model contractual clauses for MAT. The COP/MOP is mandated to periodically take stock of the use of these clauses.

**CODES OF CONDUCT (ARTICLE 16):** Following agreement to delete bracketed references, delegates approved a clean version of the provision. The article requires: parties to encourage, as appropriate, the development, update and use of voluntary codes of conduct, guidelines and best practices and/or standards in relation to ABS; and the COP/MOP to periodically take stock of their use and consider adoption of specific ones.

**AWARENESS-RAISING (ARTICLE 17):** Delegates approved the provision, with the only remaining brackets on the cross-cutting issue of derivatives, referenced along with genetic

resources. According to the article, parties are mandated to take measures to raise awareness of the importance of genetic resources and TK associated with genetic resources, and related ABS issues, through measures including, *inter alia*: meetings and help desks for ILCs and relevant stakeholders; promotion of voluntary codes of conduct, guidelines and best practices and/or standards in consultation with ILCs and relevant stakeholders; promotion of, as appropriate, domestic, regional and international exchange of experiences; and involvement of ILCs and relevant stakeholders in the further implementation of the protocol.

**CAPACITY (ARTICLE 18):** Delegates discussed a bracketed reference to the role of stakeholders, including the private sector, in capacity building, with developed countries emphasizing the role of private sector in capacity-building activities, and developing countries arguing against diluting developed countries' obligations regarding capacity building. Following informal consultations, delegates agreed to state that parties should facilitate the involvement of relevant stakeholders, *inter alia*, ILCs, NGOs and the private sector.

Delegates then discussed a bracketed reference to capacity to implement or comply with the protocol's obligations, and agreed to retain both references removing the brackets. They also agreed that information on capacity-building initiatives should be provided to the Clearing House. The provision was then approved with one outstanding item regarding the cross-cutting issue of reference to the country of origin or the country providing genetic resources.

According to this article, parties are required to cooperate in capacity building, capacity development and strengthening of human resources and institutional capacities to effectively implement the protocol in developing country parties, including through existing global, regional, subregional and national institutions and organizations. In doing so, parties should facilitate the involvement of relevant stakeholders, *inter alia*, ILCs, NGOs and the private sector. As the basis for appropriate measures in relation to the implementation of this protocol, parties should identify their national capacity needs and priorities through national capacities self-assessments, and support the capacity needs and priorities of ILCs and relevant stakeholders as identified by them, and emphasize the needs and priorities of women.

The article indicates areas to be addressed by capacity building and capacity development, such as the capacity to implement and to comply with the protocol's obligations, and the capacity of countries to develop their endogenous research capabilities to add value to their own genetic resources. The article also includes an indicative list of measures.

**TECHNOLOGY TRANSFER AND COOPERATION (ARTICLE 18 BIS):** Delegates agreed to delete a bracketed reference to measures by developed country parties that provide incentives to companies and institutions within their jurisdiction. Brackets remain with regard to whether collaborative activities shall or should take place with or in the country of origin or the country providing genetic resources. The article further requires parties to collaborate and cooperate in technical and scientific research and development programmes, including biotechnological research activities, as a means to achieve the objective of the protocol.

**NON-PARTIES (ARTICLE 18 TER):** Following discussion, parties agreed to clean text stating that parties shall encourage non-parties to adhere to the protocol and to contribute appropriate information to the ABS Clearing House.

**FINANCIAL MECHANISM AND RESOURCES (ARTICLE 19):** Delegates agreed to the provision, with the only outstanding issue referring to the qualification of financial resources as adequate, predictable, timely, new and additional. The article states that the financial mechanism of the Convention shall be the financial mechanism for the protocol. On capacity building, the COP/MOP is mandated to take into account, in providing guidance with respect to the financial mechanism, the need for financial resources, with reference to adequate,

predictable and timely flow of new and additional resources in brackets, by developing country parties, in particular the least developed and the small island developing states among them, and of the parties with economies in transition, as well as the specific needs and priorities of ILCs, including women within these communities.

**COP/MOP (ARTICLE 20):** Delegates resolved the only outstanding issue, agreeing that the meetings of the COP/MOP to the protocol shall be held concurrently with COP meetings. The article provides for institutional arrangements for the COP/MOP.

**SUBSIDIARY BODIES (ARTICLE 21):** Delegates agreed to delete two bracketed paragraphs addressing: establishment of a subsidiary body for implementation to assist the COP/MOP in the assessment and review of the protocol's implementation; and specifying that this subsidiary body shall consider information communicated by parties on implementation, and assist the COP/MOP, as appropriate, in the preparation and implementation of its decisions.

The provision contains no brackets. It states that: any subsidiary body under the Convention may, upon decision by the COP/MOP, serve the protocol, in which case the COP/MOP shall specify which functions it shall exercise; CBD parties that are not protocol parties may participate as observers; decisions relating to the protocol be taken only by parties to the protocol; and the bureau members from non-parties to the protocol of subsidiary bodies to the Convention shall be substituted by members elected by and from among protocol parties, if that body addresses matters relating to the protocol.

#### **ABS WORKING GROUP**

Working Group Co-Chairs Timothy Hodges (Canada) opened the meeting on Saturday afternoon, 16 October, and drew attention to the revised draft protocol on ABS (UNEP/CBD/WG-ABS/9/ING/2). He noted that the draft contains remaining brackets but that work has been very intense over the recent months. He called on the Working Group to take note of the ING work and forward the draft to the COP. He also noted that the COP Bureau will continue serving as the Working Group Bureau, with Somaly Chan (Cambodia) acting as Rapporteur.

Drawing attention to the draft protocol text, he shared his assessment that its finalization is within reach and suggested recommending to the COP that all efforts be made to allow for resolution of outstanding matters and removal of remaining brackets. The Working Group then approved annexing the draft protocol revised by the ING to the Working Group report, and forwarding it to the COP. Canada put on record that "nothing is agreed until everything is agreed."

Co-Chair Hodges then turned to the draft COP decision (UNEP/CBD/WG-ABS/9/4), first circulated by the Co-Chairs before the Cali meeting. He called on delegates to forward the draft to the COP on the understanding that it was not negotiated, which was accepted.

The Working Group then adopted the report of the meeting (UNEP/CBD/WG-ABS/9/L.1/Add.2) on the understanding that it will be finalized by the Rapporteur and the Secretariat.

CBD Executive Secretary Ahmed Djoghlaif commended the Co-Chairs for their leadership and the Working Group for its achievement, noting that the draft protocol, including its 13 clean articles, is a historic outcome. Jochen Flasbarth, on behalf of the COP Presidency, drew attention to the German government's commitment to a legally binding ABS instrument. Noting that all ministers at the high-level event on biodiversity in New York supported such an instrument, he urged delegates to show flexibility. Hodges said the Co-Chairs will be making recommendations to the COP, in cooperation with the Bureau, on how to finalize work, and gavelled the meeting to a close at 5:12 pm.

## CBD COP 10 HIGHLIGHTS MONDAY, 18 OCTOBER 2010

The morning plenary heard opening remarks and addressed organizational issues. In the afternoon, Working Group I (WG I) considered inland waters, mountain, and marine and coastal biodiversity. WG II addressed: progress toward the 2010 biodiversity target and the Global Biodiversity Outlook (GBO); and the revised strategic plan, biodiversity target and indicators. The Informal Consultative Group (ICG) on access and benefit-sharing (ABS) met briefly and was then suspended to allow for small group discussions.

### OPENING PLENARY

Delegates witnessed a performance of traditional arts, with Yoko Deva playing the Shinobue (Japanese flute) and the Kakashi-za group in Tekage-e (shadow play). Jochen Flasbarth (Germany), on behalf of the COP 9 Presidency, declared the meeting open and pointed to the failure to meet the 2010 biodiversity target, calling for finalizing the strategic plan and the international ABS regime. He then handed the COP chairmanship to Ryu Matsumoto, Environment Minister of Japan.

COP 10 President Matsumoto said this was a critical time for measures to protect biodiversity, and called for new realistic global targets and for the establishment of an international ABS regime. Masaaki Kanda, Governor of the Prefecture of Aichi, shared the expectation that COP 10 will adopt post-2010 targets and the international ABS regime. Takashi Kawamura, Mayor of the City of Nagoya, stressed the important role of municipalities and citizens in living in harmony with nature.

Achim Steiner, UN Environment Programme (UNEP) Executive Director, expressed UNEP's commitment to address shortcomings in MEAs' parallel governance and administrative arrangements, and emphasized that COP 10 can become a source of inspiration for successful multilateralism.

Ahmed Djoghlaif, CBD Executive Secretary, termed COP 10 as the most important meeting on biodiversity in UN history, in light of the relevance of the strategic plan and the ABS protocol, for sustainable development.

Participants then saw a video prepared by the Japanese government and a performance of the song "Life in Harmony" by Misia, COP 10 Honorary Ambassador.

**ORGANIZATIONAL ISSUES:** Delegates adopted the agenda and organization of work (UNEP/CBD/COP/10/1 and Add.1); and elected Snežana Prokić (Serbia) as Rapporteur for the meeting, and Cosima Hufler (Austria) and Damaso Luna (Mexico) as Chairs of WG I and WG II, respectively. Delegates agreed to postpone consideration of pending financial rules on the scale of assessments to COP 11.

**REPORTS:** Delegates heard reports on: the Biosafety Protocol COP/MOP 5, including the adoption of the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress; the report of the GEF (UNEP/CBD/COP/10/6); and intersessional meetings of the WG on Article 8(j), SBSTTA, and WG on the Review of Implementation (UNEP/CBD/COP/10/2 to 4), with the understanding that their recommendations will be considered under the relevant agenda items in the form of draft decisions (UNEP/CBD/COP/10/1/Add.2/Rev.1).

ABS Working Group Co-Chairs Fernando Casas (Colombia) and Timothy Hodges (Canada) reported on the ABS negotiations. Following their recommendations, plenary approved the establishment of an open-ended ICG, including a legal drafting group when appropriate, co-chaired by Casas and Hodges, to work in parallel with the two working groups to negotiate and finalize both the protocol and the COP decision, and report back by Friday, 22 October.

**ADMINISTRATION AND BUDGET:** Ahmed Djoghlaif presented his report on the administration of the Convention and the budget (UNEP/CBD/COP/10/7 and Add.1). Drawing attention to the very modest budget increase proposed, he stressed that zero growth and inflation-rate growth should not be an option. Plenary then established a contact group on budget, chaired by Amb. Conrad Hunte (Antigua and Barbuda), to report back on Friday, 22 October.

### WORKING GROUP I

**INLAND WATERS:** Chair Hufler introduced the draft decision, noting that the only pending issue was bracketed references to water security in several parts of the decision. SWITZERLAND proposed referring to water security "for ecosystem services." BRAZIL, supported by CANADA and Egypt for the ARAB COUNTRIES, proposed replacing references to water security with "natural resources," "water supply," "sustainable water supply," "sustainable use of water resources" and "water quality and availability," depending on the context. The RAMSAR CONVENTION suggested that delegates agree on a definition of the term water security, instead of replacing it with various similar terms. The Democratic Republic of Congo, for the AFRICAN GROUP, supported by NEW ZEALAND, suggested referring to "water for ecosystem services," and stressed that this should be reflected in the strategic plan. NORWAY requested removing brackets around water security.

NORWAY proposed taking account of inland water ecosystems values in national accounts; and stressed the importance of conservation of inland water ecosystems and, with CANADA, of restoration. The EU proposed that conservation and restoration efforts should be reinforced by ensuring water security for biodiversity.

**MOUNTAIN BIODIVERSITY:** Chair Hufler introduced the draft decision, noting that SBSTTA 14 submitted it without brackets. SWITZERLAND proposed that establishment of conservation corridors takes into account the need to avoid the spread of invasive alien species. BRAZIL recommended inclusion of references to benefit-sharing throughout the decision referencing conservation and sustainable use of mountain biodiversity. CHINA proposed, among others, reference to national realities in text on a long-term vision and an ecosystem approach to mountain biodiversity.

**MARINE BIODIVERSITY:** THE PHILIPPINES urged strengthening enforcement mechanisms concerning illegal, unreported and unregulated (IUU) fishing at the national and transboundary scale and creating financial mechanisms to sustain them. NORWAY suggested urging governments to act in accordance with the resolution on ocean fertilization of the London Convention and Protocol on Ocean Dumping.

NORWAY also argued that identification of ecologically or biologically sensitive areas (EBSAs) should be the task of regional competent organizations; and preferred clarifying that the identification of EBSAs is “a scientific and technical step only, and it has no function on the policy and management responsibility.” MEXICO, supported by BRAZIL, reiterated the central role of the UN General Assembly Working Group on marine biodiversity in areas beyond national jurisdiction (ABNJ) in the identification and designation of EBSAs, and opposed the creation of a CBD global inventory of EBSAs in ABNJ. The EU instead supported the establishment of a global scientific inventory, suggesting it be GEF-funded.

NORWAY and BRAZIL proposed deleting reference to a process towards designation of marine protected areas (MPAs) in ABNJ. The EU stressed the need to align the work programme with the strategic plan. ARGENTINA supported a joint expert workshop by the CBD and the UN Framework Convention on Climate Change. JAPAN proposed deleting all references to krill in the draft decision.

## WORKING GROUP II

### PROGRESS TOWARDS THE 2010 TARGET AND GBO:

Delegates addressed the progress report on implementation of the Strategic Plan and progress towards the 2010 biodiversity target and key messages of GBO 3 (UNEP/CBD/COP/10/8 and Add.1) and the respective draft decisions.

MEXICO, with BRAZIL and MALAYSIA, noted lack of funding for developing countries and lack of progress on the third CBD objective on benefit-sharing. MEXICO, BRAZIL, ECUADOR, INDIA and MALAYSIA supported removal of the brackets around a provision on liaising with the International Platform on Biodiversity and Ecosystem Services (IPBES) to achieve full synergy with the CBD. Cameroon, for the AFRICAN GROUP, said that lack of an international regime on ABS has had a negative impact on biodiversity. The EU called for redoubled efforts to halt biodiversity loss within the next decade including through partnerships. NIGER requested stating that the 2010 target “has not been achieved” rather than that it has been “partially achieved.”

AUSTRALIA said that achievement of the Millennium Development Goals (MDGs) depends on managing natural resources and ecosystems sustainably and that National Biodiversity Strategies and Action Plans (NBSAPs) are a key instrument in that regard. CANADA stressed the importance of mainstreaming biodiversity and called for the CBD not to duplicate work by UNEP and others in that regard. FAO committed to mainstreaming biodiversity in its work. The UNITED NATIONS UNIVERSITY provided recommendations on how to develop comprehensive NBSAPs, in accordance with the new strategic plan and COP guidance.

### REVISED STRATEGIC PLAN, TARGET AND

**INDICATORS:** Regarding the two options for the mission of the strategic plan, NEW ZEALAND, ICELAND and THAILAND supported the first option to take action towards

halting the loss of biodiversity and, by 2020, to have reduced the pressures on biodiversity and restored ecosystems and ecosystem services. The AFRICAN GROUP supported the second option to take action to halt biodiversity loss by 2020 provided sufficient funding is made available. The CBD ALLIANCE said the 2020 target should be to halt biodiversity loss and was contingent on financial resource mobilization and adoption of an international ABS regime. CHINA said the 2020 target should be based on science. NORWAY requested a strong scientific foundation for the strategic plan, a mission that calls for halting biodiversity loss and targets that specifically reference: subsidies, forests, fisheries and freshwater. JAMAICA expressed reservations regarding the financial implications of, and the need for, the development of additional mechanisms for implementation of the Strategic Plan.

The EU said the strategic plan is an effective and flexible framework which could enhance international governance among conventions. COLOMBIA called for the reinforcement of regional cooperation and financial and technical support. SOUTH AFRICA called for additional financial resources for implementing the strategic plan. BRAZIL pointed to the connection between the revised strategic plan and the strategy for resource mobilization. IUCN said urgent action to halt biodiversity loss is needed to avoid catastrophic tipping points.

Chair Luna announced that a contact group will convene on Tuesday.

### INFORMAL CONSULTATIVE GROUP ON ABS

The ICG met to discuss the process forward and agreed that: a small group on compliance (article 13) would meet during the rest of the afternoon; a group on the relationship with other instruments (article 3 bis) would meet in the evening; and the ICG would review progress on Tuesday.

**COMPLIANCE (ARTICLE 13):** The group held a conceptual discussion on checkpoints, on the basis of text drafted by Co-Chairs Sem Shikongo (Namibia) and Alejandro Lago (Spain), stating that checkpoints shall collect information on whether prior informed consent (PIC) has been obtained and mutually agreed terms (MAT) have been established and on related information on the use of genetic resources, including, where available, through a permit or internationally recognized certificate of compliance, and that the obtained information will be transmitted to the competent national authority for ABS. Delegates shared views on issues, including: genetic resources crossing checkpoints that would fall outside the protocol’s scope, either because they were for domestic use or because PIC was not required; the need to focus on alleged violations of provider country legislation; linkages with article 12 (compliance with domestic legislation) and article 14 (compliance with MAT); and which authority should receive the obtained information.

### IN THE CORRIDORS

Following an impressive opening ceremony and a brisk organizational plenary, delegates went straight to tackling the diverse, complex and highly interlinked agenda. “Never before have I seen such an urgency to deliver,” said one seasoned participant. Having left the September ABS meeting in Montreal worried that the ABS negotiations were running out of time, several delegates were pleasantly surprised to see progress being made in Nagoya, as “everybody seems determined to conclude this.”

Both in the corridors and in the meeting rooms, it was no secret that the meeting’s success will be treated as a “package:” almost 20 years after CBD’s entry into force, the developing world needs the ABS protocol to start realizing the Convention’s third objective – benefit-sharing. More than one delegate made it clear that, unless a breakthrough on ABS was achieved and was accompanied by substantive funding-related decisions, there would be no agreement on either the strategic plan or IPBES.

## CBD COP 10 HIGHLIGHTS TUESDAY, 19 OCTOBER 2010

A morning plenary heard regional statements. Working Group I considered draft decisions on marine and coastal biodiversity, and protected areas; and Working Group II on operations of the Convention, the financial mechanism, and the strategy for resource mobilization. ABS negotiations focused on the relationship with other agreements, emergency situations, traditional knowledge, and compliance.

### PLENARY

Yemen, for the G-77/CHINA, called for: implementing the three objectives of CBD, in a mutually supportive manner; concluding negotiations of the ABS protocol, revised strategic plan and resource mobilization strategy; securing universal membership to the CBD; maximizing resources to fund developing countries' participation in CBD meetings; and immediately addressing the shortcomings in the administrative arrangements between UNEP and the CBD Secretariat.

Brazil, for the Like-Minded Megadiverse Countries (LMMC), Like-Minded Asia-Pacific (LMAP) and GRULAC, called for agreeing on a package including ABS, the strategic plan and the resource mobilization strategy, in preparation for the Rio+20 Summit. He recommended that the ABS protocol include derivatives, strong compliance provisions, and recognition of ILCs' rights. Malawi, for the AFRICAN GROUP, also prioritized ABS, the strategic plan and the resource mobilization strategy, calling for a comprehensive and predictable ABS regime to support sustainable use of biodiversity. Malaysia, for LMAP, cautioned against an "empty protocol" on ABS, underscoring the need to include derivatives, effective compliance measures, and traditional knowledge (TK) as a cross-cutting issue. Mexico, for GRULAC, pointed to the "indivisible package" to be adopted by COP 10 to create a virtuous international cooperation framework.

Ukraine, for CEE, emphasized finalization of the ABS protocol and setting clear and realistic objectives in the strategic plan linked with adequate resources for implementation. The EU

stressed the need to: ensure more efficient use of resources from public and private sources for implementing the strategic plan; adopt a meaningful ABS protocol; send a strong message on biodiversity and sustainable development to the Rio+20 Summit; enhance cooperation between the Rio Conventions; and integrate biodiversity into other sectors and involve the private sector.

INDIA prioritized the strategic plan, resource mobilization strategy, ABS protocol and IPBES, and offered to host the IPBES secretariat. He also remarked that certain strategic plan targets are: too ambitious for developing countries without adequate support; not entirely based on science; and not accompanied by an appropriate monitoring system. Vanuatu, for the PACIFIC ISLANDS, stressed the need for adequate financial resources and time to implement the strategic plan.

The IIFB urged that all COP decisions recognize and respect: indigenous rights; the role of indigenous women; TK; and indigenous peoples' full and effective participation in CBD decision-making, noting that negotiations did not duly take into account indigenous peoples' contributions.

### WORKING GROUP I

**MARINE AND COASTAL BIODIVERSITY:** INDONESIA and FIJI proposed new text highlighting the importance of financing for coral reef protection. NEW ZEALAND recommended aligning the work programme with the strategic plan and the PA work programme. The NATURE CONSERVANCY called for enhanced linkages between the work programme, the strategic plan and the MDGs. PAKISTAN suggested adding reference to the threat posed by oil spills.

The IIFB urged: recognition of TK and traditional sustainable management practices; ILCs' full and effective participation in policy-making, implementation and monitoring at all levels; and studies of climate change impacts on marine biodiversity and indigenous peoples' livelihoods. The INTERNATIONAL COLLECTIVE IN SUPPORT OF FISHWORKERS called for mandating communities' involvement in the protection of marine biodiversity and respecting the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). UNU called for the inclusion of TK in marine biodiversity conservation.

**Climate change:** MALAYSIA, the Democratic Republic of Congo, for the AFRICAN GROUP, and TIMOR LESTE supported an expert workshop on climate change impacts on ocean areas. THAILAND, EGYPT, CANADA, INDIA and HONDURAS favored a joint CBD-UNFCCC expert workshop to promote better understanding of issues of common interest. TANZANIA, COSTA RICA, VENEZUELA, URUGUAY, GUATEMALA, HAITI, PAKISTAN and JAMAICA preferred requesting the CBD to include the interaction between oceans and climate change in future collaboration with the UNFCCC, with EL SALVADOR proposing inclusion of mitigation alternatives and adaptation options. PAPUA NEW GUINEA noted that the expert workshop can result in CBD-UNFCCC collaboration.

**Ecologically or biologically sensitive areas (EBSAs):** CANADA, INDIA, HONDURAS, GUATEMALA and UKRAINE, speaking also for GEORGIA and the RUSSIAN FEDERATION, supported emphasizing the key role of the UN General Assembly in facilitating the designation of EBSAs in areas beyond national jurisdiction. The AFRICAN GROUP, HAITI and VENEZUELA preferred emphasizing the CBD identification of EBSAs as separate from the determination of policy and management responses. THAILAND, FIJI and EGYPT suggested a combination of the two options.

The AFRICAN GROUP called for bringing the scientific criteria to identify EBSAs in open-ocean waters and deep-sea habitats to the attention of Regional Fisheries Management Organizations (RFMOs). IUCN urged parties to build on the CBD criteria on EBSAs.

JAMAICA proposed deleting paragraphs related to the establishment of a CBD global inventory of EBSAs in areas beyond national jurisdiction, while BIRDLIFE INTERNATIONAL, CENSUS OF MARINE LIFE and WWF supported its creation. FAO called for a more participatory process in CBD's work on identification of EBSAs.

**Marine protected areas (MPAs):** The AFRICAN GROUP supported reference to a process towards designation of MPAs in areas beyond national jurisdiction in the framework of the UN General Assembly, while VENEZUELA proposed its deletion. The DEEP SEA CONSERVATION COALITION recommended: protecting spawning grounds; robust cooperation between the CBD and RFMOs; and urging the General Assembly to establish a process to enable the establishment of MPAs in areas beyond national jurisdiction as a matter of high priority.

Chair Hufler proposed, and delegates approved: lifting brackets around RFMOs; "parking" text on collaboration with UNFCCC until completion of discussions on the draft decision on climate change; and establishing a contact group on the rest of the decision, to be chaired by Renée Sauvé (Canada).

**PROTECTED AREAS:** Chair Hufler proposed, and delegates agreed, not to comment on issues related to climate change, GEF, MPAs and cooperation between the Rio Conventions, as these will be considered under other agenda items.

Egypt, for the ARAB COUNTRIES, proposed including PAs in the work of IPBES. SWITZERLAND supported a joint programme on PAs, biodiversity, climate change and land degradation among the Rio Conventions. BRAZIL, supported by INDIA, suggested including a definition of ecological networks and biological corridors in a footnote. BOTSWANA pointed to "transfrontier PAs" to improve connectivity. AUSTRALIA called for flexibility to allow distinction between different categories of PAs.

**Sustainable finance:** BRAZIL proposed referring to "developed country parties" rather than "donor countries." BELARUS called for preparing methodological guidelines for estimating costs of establishing PAs. NORWAY proposed that the text on sustainable financing be cross-checked with other decisions on finance.

THE PHILIPPINES, supported by CHINA, ARGENTINA, INDIA, HONDURAS, INDONESIA and SAINT LUCIA proposed removing brackets regarding the provision of adequate, predictable and timely financial support to developing countries. URUGUAY proposed text to remind the UNFCCC to pay attention to climate financing mechanisms related to PAs. The EU stressed the role of NBSAPs as a basis for accessing resources under the fifth GEF replenishment, and the need to integrate PA reporting with reporting under the strategic plan. NEPAL noted that an increase in the number of PAs requires an increase in funding.

**Governance:** Fiji, for PACIFIC ISLANDS, recalled the importance of indigenous communities' management of PAs. The EU supported the full and effective participation of ILCs, consistent with national law and international obligations. The IIFB called for full participation of indigenous peoples in the management and governance of PAs.

INDONESIA called attention to managing ecosystems outside PAs, indigenous and community conserved areas, ecosystem restoration and sustainable customary use. FAO called for standards and best practices to minimize biodiversity loss in and around PAs. The NATURE CONSERVANCY, WWF, BIRDLIFE INTERNATIONAL and the CBD ALLIANCE emphasized: protecting the right areas; improving management; integrating PAs into climate change mitigation and adaptation strategies; and increased financing from traditional and innovative mechanisms.

## WORKING GROUP II

**OPERATIONS OF THE CONVENTION: Multi-year programme of work:** The EU requested that the focus be on implementation of the CBD and the strategic plan at the national and regional level. NORWAY and the AFRICAN GROUP suggested making ABS a main agenda item for COP 11, whereas the PHILIPPINES noted that once an ABS protocol is adopted, it will have its own operational structures. The EU further suggested that a strong message for the Rio+20 Summit be prepared by WGRI 4.

On periodicity of meetings, MEXICO, BOSNIA AND HERZEGOVINA and BRAZIL recommended that the COP take place every three years. GRENADA, SAINT LUCIA and



THAILAND supported holding biannual meetings of the COP and COP/MOP, with two intersessional SBSTTA meetings. CANADA, JAPAN, MALAYSIA and the EU suggested that the issue be reviewed at COP 11, whereas BRAZIL and the AFRICAN GROUP supported review at COP 12. Papua New Guinea, for the PACIFIC ISLANDS, stressed the importance of the island biodiversity work programme and called for an AHTEG to facilitate its review prior to COP 11.

**Fifth national report:** CUBA and the AFRICAN GROUP suggested providing the GEF with a clear mandate to provide funds for report preparation. The EU supported submitting national reports by 2014, and aligning the format of the fifth and sixth report to enable measuring of trends. NEW ZEALAND, AUSTRALIA and SAMOA called for a harmonized and integrated approach to reporting.

**Science-policy interface:** Many delegates supported establishment of an IPBES. CANADA highlighted possible synergies and interactions between IPBES, SBSTTA and other CBD bodies. BRAZIL said that key questions such as funding and governance have to be determined by the UNEP Governing Council.

**SBSTTA effectiveness:** The AFRICAN GROUP and NEW ZEALAND supported requesting the Executive Secretary to submit a draft *modus operandi* on the relationship between SBSTTA and IPBES to COP 11. CHINA requested awaiting the outcome of the UNEP Governing Council before discussing the relationship with IPBES. CANADA noted that reference to mobilization of resources for voluntary reports is beyond SBSTTA's mandate. NORWAY opposed creation of additional reporting systems. COLOMBIA stressed that SBSTTA should provide guidance regarding optimal allocation of resources. CHINA and INDIA requested details about proposed AHTEGs. NORWAY supported joint meetings of Rio Conventions' bodies dealing with scientific advice, whereas INDIA expressed concerns due to diverging mandates.

**New and emerging issues:** The PHILIPPINES pointed to synthetic biology and geo-engineering, calling for application of the precautionary approach.

**Retirement of COP decisions:** INDIA suggested a minimum of eight years between adoption and consideration of retirement of decisions.

**FINANCIAL MECHANISM:** A GEF representative introduced the GEF report (UNEP/CBD/COP/10/6). SWITZERLAND, NEW ZEALAND and JAPAN pointed to increased donor contributions under the fifth GEF replenishment. The EU said that the revised strategic plan should constitute the future guidance for GEF. CANADA said coherent programme priorities should be communicated to the GEF. MEXICO and SOUTH AFRICA called for adequate additional support for implementation of NBSAPs. The UNCCD called for increased collaboration with CBD and GEF to mutually support the achievement of the Rio Conventions' objectives. The IIFB called for development of a policy on indigenous peoples under the financial mechanism.

## STRATEGY FOR RESOURCE MOBILIZATION:

BRAZIL and the PHILIPPINES said that effective implementation of the CBD continues to be impeded by insufficient and unpredictable financial resources, and that developed countries must fulfill their obligations to provide new funds. KENYA called for a monitoring mechanism in that regard. BRAZIL supported the inclusion of quantitative targets and indicators within the strategy. The EU said that a balance between the ambition of the strategic plan, adequate capacity and commitment, including financial resources, should be ensured. MALAWI said that resource mobilization should include an area focus on ABS implementation.

On innovative financial mechanisms, the AFRICAN GROUP, the EU and CHINA stressed that such mechanisms are meant to supplement, not replace, the financial mechanism. BOLIVIA said financial resources have to come from public funds in developed countries, drawing attention to the "environmental debt" to developing countries. The AFRICAN GROUP and MALAYSIA opposed reference to the Green Development Mechanism and JAPAN all references to specific initiatives. NORWAY called for development of national finance mobilization strategies to access public and private resources, including using the approach of The Economics of Ecosystems and Biodiversity (TEEB) study. JAPAN noted that the implementation of the revised strategic plan requires additional financing which could be drawn from innovative financial mechanisms. The IIFB expressed concern that proposed innovative financial mechanisms could negatively impact indigenous lands and resources, and called for recognition of the right to self-determination and free PIC. ECONEXUS said the promotion of innovative financial mechanisms is a distraction from the real priority to secure public financing for biodiversity conservation and eradicate perverse subsidies. She warned that the Green Development Mechanism and similar mechanisms promote new access and ownership rights that compete with the rights of ILCs.

Co-Chair Luna invited M.F. Farooqui (India) and Robert Lamb (Switzerland) to facilitate further consultations on financial issues.

## INFORMAL CONSULTATIVE GROUP ON ABS

### RELATIONSHIP WITH OTHER AGREEMENTS

**(ARTICLE 3 BIS):** In the ICG, delegates agreed to state that nothing in the protocol shall affect parties' rights under other agreements, except where their exercise would cause a serious threat to biodiversity; and that this language does not create a hierarchy between the protocol and other instruments. On language on mutually supportive implementation, Co-Chair Hodges suggested deleting reference to ongoing work and practices under other agreements. The AFRICAN GROUP, GRULAC and the LMAP agreed, but the EU, CANADA and AUSTRALIA opposed. In a small group, delegates agreed on the need to recognize the value of ongoing work and practices under other relevant agreements, but not on how these should be referenced. The small group agreed to resume discussions after resolving pending issues on emergency situations.

**EMERGENCY SITUATIONS (ARTICLE 6(b)):** In a small group, delegates considered a proposal by Co-Chairs Paulino Franco de Carvalho Neto (Brazil) and François Pythoud (Switzerland) stating that parties shall pay due regard to health emergencies and take into consideration the need for expeditious/simplified procedures on access, provided that there is fair and equitable sharing of benefits, including by means of access to affordable treatments to those in need, especially in developing countries. Delegates made numerous proposals, leading to a heavily bracketed text, but agreed that the article should reference: emergency situations with regard to human, animal and plant health; definition of emergency situations and/or reference to relevant international agreements; simplified or expeditious access procedures; and benefit-sharing.

**TK (ARTICLE 9):** Following informal consultations, delegates agreed to a reference stating that parties shall, in accordance with domestic law, take into consideration ILCs' customary laws, community protocols and procedures, as applicable, with respect to TK associated with genetic resources.

On TK in the public domain, delegates could not agree on whether parties shall "encourage" or "require" users of such TK to take measures to share benefits. INDONESIA and CHINA, opposed by CANADA, insisted on "require." Both sides preferred deleting the reference if their wording was not accepted.

**COMPLIANCE (ARTICLE 13):** With regard to the provision's chapeau, the small group held a preliminary discussion on text drafted by Co-Chairs Shikongo and Lago, stating that parties shall take measures, as appropriate, to monitor the utilization of genetic resources to support compliance. Several alternative formulations were suggested, with discussion focusing on: whether to refer to compliance in general or to compliance with PIC and MAT, as supported by developing countries; whether to add reference to enhancing transparency, as suggested by developed countries, and where to place it in the text; and whether parties should "report" on genetic resource utilization, in addition to monitoring.

With regard to checkpoints, delegates discussed, among others: whether text should remain general or include details; what kind of information should be transmitted to the relevant national authority in order to enforce obligations established under article 12 on compliance with domestic legislation; whether the burden for information gathering should be on the provider or also the user country; and the possibility for the COP/MOP to decide on the information required. Following a drafting exercise during which delegates marked all their concerns in the text by inserting or bracketing language, the Co-Chairs established a closed group, which continued deliberations into the evening.

## CONTACT GROUPS

**STRATEGIC PLAN:** The contact group on the strategic plan, co-chaired by Asghar Fazel (Iran) and Finn Katerås (Norway), initiated discussions on possible wording for the 2020 target and then moved on to considering other targets that contained bracketed provisions.

**BUDGET:** The budget group considered three budget scenarios, including a proposed growth scenario, or maintaining the programme budget in real or nominal terms. Delegates also considered financial implications related to ABS, and requested the Secretariat to adjust proposals accordingly. Deliberations will continue on Thursday.

## IN THE CORRIDORS

After a fancy reception on Monday evening and programmatic regional statements on Tuesday, COP 10 delegates moved swiftly into working mode, with both working groups tackling their agendas and establishing their first contact groups. Opinions differed regarding the effectiveness of the work done so far, with some noting that the speedy conclusion of the first reading of many agenda items should not be overrated, as final agreement on many issues is contingent on agreement on others, noting mainly financial and climate change-related topics. Some feared that COP 10 had entered into "process proliferation mode," rather than "working mode." Others, however, welcomed the trend to address as many issues as possible, as early as possible.

ABS delegates meeting in their "parallel universe" in a remote corner of the Nagoya Conference Center, have already lost count of the number of small groups convened on specific issues. As participants rushed back and forth between meeting rooms, most were cautiously optimistic. "Compared to past negotiations, we are moving at the speed of light, but looking at the task ahead of us we are still far too slow," one put it. Another explained that delegates are currently exploiting the newly created space for agreement as some countries came with new instructions, "but we will hit the wall sooner or later and then the challenge will be to carve out those political questions that we want our ministers to address next week."

Meanwhile, in the outside world, the media quoted skepticism from both developed and developing country ministers, which led some to speculate whether all ministers are really prepared to cut a deal in Nagoya.

## CBD COP 10 HIGHLIGHTS WEDNESDAY, 20 OCTOBER 2010

Working Group I considered draft decisions on sustainable use, climate change, dry and sub-humid lands, and forest biodiversity. Working Group II addressed scientific and technical cooperation and the Clearing-House Mechanism (CHM), technology transfer, communication, education and public awareness (CEPA) and the International Year of Biodiversity (IYB), cooperation with other conventions and engagement of stakeholders. ABS negotiations focused on traditional knowledge, compliance, emergency situations and the relationship with other agreements. Several contact and informal groups met during the day and into the night.

### WORKING GROUP I

**SUSTAINABLE USE:** BRAZIL and the AFRICAN GROUP stressed that sustainable use should provide a link with the other CBD objectives, with the AFRICAN GROUP calling for implementation through subregional organizations. NIGERIA requested reference to ABS with regard to incentives or market-based instruments. IUCN regretted that the draft decision does not sufficiently address over-exploitation. The IIFB identified secure land and resource rights, and legal recognition of customary laws and institutions as requirements for sustainable customary use.

**Technical expert group:** The PHILIPPINES supported creation of an AHTEG on sustainable use in agriculture and forestry, including non-timber forest products, whereas AUSTRALIA, ARGENTINA, BRAZIL, GUATEMALA and the AFRICAN GROUP opposed it, raising concerns about duplication of efforts within the UN system. The RUSSIAN FEDERATION raised concerns about financial implications.

NORWAY, INDONESIA, NEW ZEALAND, SWITZERLAND and Egypt, for the ARAB COUNTRIES, expressed concern about the AHTEG's terms of reference (TORs) being too broad, and the EU called for their careful consideration. SWITZERLAND proposed greater focus on regional approaches to share good practices on sustainable use. IUCN proposed that the AHTEG also consider fisheries, aquaculture and wildlife management. Chair Hufler proposed, and delegates agreed, to request the Secretariat to compile relevant information for SBSTTA 15 consideration, rather than hold an AHTEG.

**Satoyama Initiative:** Many delegates supported the Satoyama Initiative. The AFRICAN GROUP, ECUADOR and PALAU called for further information on the initiative. JAPAN, supported by GHANA, proposed noting the launch of the International Partnership on the Satoyama Initiative. NEW ZEALAND favored using "tools for promoting the sustainable use of biodiversity" over "Satoyama Initiative" in the title. AUSTRALIA and the PHILIPPINES expressed concern that the Initiative may be used to distort trade or production, with AUSTRALIA suggesting a pilot project to test the initiative. GHANA opposed reference to obligations under the World Trade Organization (WTO), and proposed making express reference to Japan's financial contribution to be disbursed through the GEF Small Grants Programme, adding a request to the Secretariat to support parties in implementing the Initiative. BIOVERSITY INTERNATIONAL suggested the Satoyama Initiative contribute to developing indicators on sustainable types of agricultural production. Chair Hufler established a Friends of the Chair group, chaired by Alfred Oteng-Yeboah (Ghana).

**CLIMATE CHANGE: Cooperation among the Rio Conventions:** CHINA stressed the need to respect the expertise and independent mandate of the UNFCCC, as well as the principle of common but differentiated responsibilities; and opposed a joint work programme among the Rio Conventions. The EU, with NORWAY, called for the three conventions to be "mutually supportive." MEXICO, TUVALU, BOSNIA AND HERZEGOVINA, PAKISTAN, MAURITIUS, PALAU, the AFRICAN GROUP, NEPAL, SWITZERLAND, TIMOR LESTE, COSTA RICA and GREENPEACE called upon the CBD to convey a proposal on joint activities, including a joint work programme, to the other Rio Conventions. The PHILIPPINES, COLOMBIA, SOUTH AFRICA, PAPUA NEW GUINEA, INDIA and BRAZIL preferred suggesting that parties consider the pertinence of undertaking joint activities and a joint work programme.

**REDD+:** GRENADA, PALAU, CANADA, SWITZERLAND, INDIA, Bolivia for the BOLIVARIAN ALLIANCE FOR THE AMERICAS (ALBA) GROUP, MEXICO and IIFB supported text on enhancing benefits for ILCs from reducing emissions from deforestation and forest degradation in developing countries; and the role

of conservation, sustainable management of forests and enhancement of forest carbon stocks (REDD+). ARGENTINA cautioned against going beyond the CBD mandate.

On CBD collaboration with the Collaborative Partnership on Forests (CPF), PAKISTAN, INDONESIA, THAILAND, the AFRICAN GROUP, CANADA, JAPAN, SWITZERLAND, the RUSSIAN FEDERATION, MALAYSIA, GREENPEACE and IIFB called upon the CBD to contribute to the discussion on biodiversity safeguards and mechanisms to monitor impacts on biodiversity. MAURITIUS, TIMOR LESTE and NEPAL preferred that the CBD seek to explore opportunities to provide advice on REDD+, as requested and based on consultation with parties. The ECOSYSTEMS CLIMATE ALLIANCE noted that biodiversity safeguards do not exist in land-use provisions of the Kyoto Protocol applied to developed countries.

PAKISTAN, TIMOR LESTE, SWITZERLAND, THAILAND, PERU and CANADA favored requesting the Secretariat to contribute to the development of guidance on synergies between national forest biodiversity-related measures and climate change measures.

**Geo-engineering:** TUVALU, the PHILIPPINES, COSTA RICA, the AFRICAN GROUP, SWITZERLAND, the ALBA GROUP, GRENADA, GREENPEACE, ECOSYSTEMS CLIMATE ALLIANCE and ETC GROUP requested that no geo-engineering is undertaken until an adequate scientific basis justifies it and associated risks are considered. The PHILIPPINES also proposed inserting language on the urgent need for a transparent regulatory framework on geo-engineering, and BRAZIL that scientific activities can only be developed on a small scale and within national jurisdiction. The EU urged a cautious approach to geo-engineering. NORWAY stressed the need for a stronger scientific basis before any geo-engineering experiments are carried out. JAPAN said that certain geo-engineering activities could be beneficial for biodiversity and climate change. The RUSSIAN FEDERATION requested deletion of language on geo-engineering. The ROYAL SOCIETY cautioned against preventing safe and responsible scientific research in geo-engineering.

**Funding:** The AFRICAN GROUP, ARGENTINA, GRENADA, BOSNIA AND HERZEGOVINA, PAKISTAN, NEPAL, TIMOR LESTE, CEE and PALAU called for removing brackets around several paragraphs on funding for biodiversity and climate change.

Chair Hufler established a Friends of the Chair group to discuss geo-engineering, chaired by Horst Korn (Germany), and a contact group to address REDD+ and collaboration among the Rio Conventions, to be chaired by Hesiquio Benitez (Mexico).

**DRY AND SUB-HUMID LANDS:** IRAN and the AFRICAN GROUP, opposed by CHINA, supported text noting differences between the UNCCD and CBD criteria for the definition of drylands. The AFRICAN GROUP, CHINA and GUATEMALA preferred to “implement and develop,” and ARGENTINA to “explore,” joint actions to increase cooperation between the natural and social science communities to increase the integration of biodiversity considerations into disaster reduction.

**FOREST BIODIVERSITY:** The EU, supported by NORWAY and SWITZERLAND, proposed new text on forest law enforcement, governance and trade; and PAKISTAN on ecosystem-based forest management.

**Cooperation with UNFF:** BELARUS, ECUADOR and INDONESIA called for including reference to strengthening partnerships between CBD and other forest-related conventions. ECUADOR urged collaboration with the UNFCCC, more information on REDD+ and, with KENYA, respect for indigenous peoples’ rights. NORWAY and CANADA supported work on definitions of forest and forest types. The PHILIPPINES, opposed by NEW ZEALAND, proposed including reference to “functional and ecosystem-based definition of forests.” AUSTRALIA cautioned that any agreed international definition should be broad to allow for flexibility at the country level, and against pre-empting any future decision by UNFCCC.

**Cooperation with CPF:** The AFRICAN GROUP and SWITZERLAND supported calling on the Secretariat to contribute to discussions on biodiversity safeguards and mechanisms to monitor impacts of REDD+ on biodiversity. COSTA RICA preferred the Secretariat to explore opportunities, based on consultation with parties, to provide advice on REDD+ upon request.

## WORKING GROUP II

**SCIENTIFIC AND TECHNICAL COOPERATION AND CHM:** MOROCCO suggested promoting exchange of information through South-South cooperation. BRAZIL stressed quality information to facilitate the implementation of NBSAPs. BENIN and BURKINA FASO underscored the importance of the CHM to implement the strategic plan, CHINA to raise public awareness, and NIGER to disseminate information at the national level. BRAZIL, INDIA, the PHILIPPINES and MALAYSIA highlighted the need for further financial support to implement and maintain national CHMs; JORDAN said GEF should ensure funding; and the AFRICAN GROUP called for capacity building. The EU called for increased efforts by parties to ensure national implementation. The PACIFIC ISLANDS said that the CHM needs to be user-friendly and easily accessible to local communities.

**TECHNOLOGY TRANSFER AND COOPERATION:** CUBA called for a stronger decision and concrete commitments on technology transfer. HAITI highlighted the need to adapt transfer of technology to local conditions and integrate it with indigenous and local technologies. UGANDA proposed linking implementation of the ABS regime to technology transfer.

**Biodiversity technology initiative (BTI):** The EU said that institutions already working on technology transfer, rather than the CBD Secretariat, should host the proposed BTI, and that details of governance for the BTI had to be further elaborated. The AFRICAN GROUP said the Secretariat should host the BTI and, supported by COLOMBIA, INDIA, the PHILIPPINES, SINGAPORE, HAITI and JORDAN, but opposed by SWITZERLAND and JAPAN stressed that the BTI should be binding. BRAZIL maintained that a binding BTI under the CBD was necessary to correct the imbalance regarding access to information and technology. CANADA called for further elaboration of its TORs for consideration at a later stage.

**CEPA AND IYB:** The AFRICAN GROUP called for participation of relevant stakeholders in ABS issues. The EU suggested establishing a baseline on awareness and called for promoting synergies to raise financial resources. JAPAN called for mainstreaming biodiversity. CANADA urged use of indicators for measuring achievement of CEPA. MALAYSIA recommended innovative approaches and use of interactive

technologies, and the PACIFIC ISLANDS approaches that work for small island states. The ARAB COUNTRIES stressed the key role of civil society. BURUNDI called for raising public awareness among decision-makers. The IIFB called for involvement of indigenous peoples and inclusion of references to indigenous rights throughout the draft decision.

Many countries reported on their activities for the IYB and supported proposing an international decade on biodiversity. PERU recommended that the Secretariat conduct an assessment of the impact of all IYB activities.

#### **COOPERATION WITH OTHER CONVENTIONS:**

The EU said cooperation is crucial to the strategic plan implementation, and noted that the Liaison Group of Biodiversity-related Conventions showed limited progress, proposing to revise its mandate. NORWAY proposed additional language on strengthening collaboration with the WHO and with national health strategies. SENEGAL suggested including reference to the International Year of Forests. The WTO proposed language on cooperation with non-biodiversity related agreements.

**ENGAGEMENT OF STAKEHOLDERS: Gender and biodiversity:** Cameroon called for accelerating implementation of the Gender Plan of Action and further financial resources and indicators for its implementation. The CBD WOMEN'S CAUCUS, supported by THAILAND and TANZANIA, called for enhancing implementation of the Gender Plan of Action through creating a CBD staff position on gender.

**Business and biodiversity:** CANADA encouraged reporting on biodiversity conservation by the private sector. The EU supported: strengthening communication on biodiversity and ecosystem services within the business communities; and exploring innovative financial mechanisms such as payments for ecosystem services and partnerships to support the implementation of the strategic plan.

**Engagement of cities and local authorities:** BRAZIL presented the draft plan of action on cities and local authorities for biodiversity, and suggested additional references to cities and business and recognition of the role of subnational governments and local authorities. The EU proposed to review the draft plan at WGRI 4, noting it can play a key role in implementing the strategic plan. Singapore, for the ASIA-PACIFIC GROUP, stressed the role of cities in implementing and financing core CBD activities. CANADA welcomed the development of the biodiversity index for cities.

**South-South cooperation:** The AFRICAN GROUP suggested issues for South-South cooperation, such as: ABS, TK, invasive alien species, restoration of ecosystems and monitoring. The EU suggested reviewing the proposed multi-year plan of action on South-South cooperation for biodiversity and development at WGRI 4, whereas CHINA called for its adoption at COP 10. BRAZIL urged richer countries not to block South-South cooperation, since it can ensure exchange of technologies in a culturally and environmentally appropriate way.

Chair Luna proposed addressing outstanding issues on cities and South-South cooperation in informal consultations.

#### **INFORMAL CONSULTATIVE GROUP ON ABS**

**TRADITIONAL KNOWLEDGE: Access (Article 5 bis):** Small group Co-Chair Janet Lowe (New Zealand) reported on fruitful discussions on access to TK held by ILCs, and cooperation in cases of alleged violation, noting that the group

had not agreed, since the issue was discussed for the first time and is linked to compliance. Delegates then considered a proposal by ICG Co-Chair Casas to delete bracketed paragraphs on enforcement, compliance and cooperation in cases of alleged violation, and finally agreed to move them into a new article 12 *bis* on compliance and TK-related issues. In the afternoon, delegates requested the small group on TK, co-chaired by Janet Lowe and Jorge Cabrera Medaglia (Costa Rica), to tackle the new article 12 *bis* and the TK-related clauses in the preamble. Small group deliberations were held in the evening and continued into the night.

**TK and compliance (Article 12 bis):** In the evening, the small group considered compliance with domestic legislation on access to and use of TK. Delegates agreed that parties shall take measures to provide that TK associated with genetic resources utilized within their jurisdiction has been accessed in accordance with PIC, or approval and involvement of ILCs, and that MAT have been established as required by the domestic ABS legislation or regulatory requirements of the party or parties where such ILCs are located.

**Benefit-sharing (Article 4(4)):** Delegates discussed language on sharing of benefits arising out of the utilization of TK associated with genetic resources, based on a compromise proposal stating that parties shall take measures "so that" such benefits are shared. After extended discussion and further consultations, delegates approved language stating that parties shall take legislative, administrative or policy measures, as appropriate, in order that the benefits arising from the utilization of TK associated with genetic resources are shared in a fair and equitable way with ILCs holding such knowledge, and that such sharing shall be upon MAT.

**Publicly available TK (Article 9(5)):** ICG Co-Chair Casas presented compromise language stating that parties shall encourage users of TK, which has been obtained by that user from a source other than an ILC, to take reasonable measures to enter into benefit-sharing arrangements with the rightful knowledge holders. GRULAC, AUSTRALIA and JAPAN accepted the text, while the AFRICAN GROUP, INDONESIA, the PHILIPPINES and CHINA requested that parties "require" users to take such measures, with the PHILIPPINES explaining that the provision refers to typical biopiracy cases.

The IIFB then proposed stating that parties shall take measures in order that users of TK obtained from a source other than an ILC enter into benefit-sharing arrangements. The proposal was welcomed, with CANADA requesting qualifying the measures as legislative, administrative or policy, as appropriate. The AFRICAN GROUP, CHINA, INDIA and the PHILIPPINES accepted it, as long as explicit reference to publicly available TK was added, which was opposed by AUSTRALIA, CANADA and JAPAN. The EU reiterated their request to state that the first COP/MOP review shall assess implementation of this obligation in light of international developments, in particular work in the WIPO IGC and, expressing general concerns, requested bracketing the paragraph. Co-Chair Casas called for informal consultations to resolve the issue.

**COMPLIANCE (ARTICLE 13):** The ICG heard from small group Co-Chairs Lago and Shikongo who reported on the previous night's negotiations. They highlighted agreement on part of general language on checkpoints, but no progress with regard to the list of checkpoints or the issue of mandatory

disclosure requirement. In the evening, the small group continued deliberations on language stating that checkpoints would collect or receive, as appropriate, relevant information related to PIC, the source of genetic resources, the establishment of MAT and/or the utilization of genetic resources; and an additional paragraph on where such information should be provided. Discussion then focused on the mandatory disclosure requirement, where positions remained polarized. In the evening, the small group agreed that the provision should address: obligation to disclose; what information to disclose; consequences of failure to disclose; mechanism with regard to PIC; and linkages to checkpoints and the certificate of compliance.

**EMERGENCY SITUATIONS (ARTICLE 6 BIS):** In the evening, the small group discussed whether to refer to emergency situations that threaten or damage, or to conditions that cause imminent threat or damage, human, animal or plant health. Discussions continued into the night.

### **CONTACT GROUPS AND INFORMALS**

**MARINE AND COASTAL BIODIVERSITY:** Delegates met over lunchtime and in the evening to consider a non-paper prepared by the Secretariat. They agreed to: refer to other “intergovernmentally agreed” scientific criteria, in addition to CBD criteria on EBSAs; and retain reference to collaboration between the CBD and the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (GRAME) and IPBES, in order to advance implementation of the marine biodiversity work programme.

Delegates then discussed, without reaching agreement, whether to retain reference to: specific language adopted by the UN General Assembly on bottom-fishing requesting prior environmental impact assessment (EIA) and closing of vulnerable areas identified by the EIA, which was opposed by two developed countries; and references to areas beyond national jurisdiction and RFMOs in this context. Delegates also discussed, without reaching agreement, whether to: refer to the precautionary principle or approach, with regard to effectively managing MPAs; and retain language requesting the Secretariat to synthesize information on the impacts of krill exploitation on marine biodiversity, in collaboration with relevant intergovernmental organizations.

In the evening, delegates discussed new text on impacts of unsustainable human activities on marine and coastal biodiversity, focusing on marine spatial planning and the role of marine and coastal ecosystems in climate change adaptation and mitigation. Delegations supported the proposal in principle but requested time to consult. Delegates also considered the identification of EBSAs and scientific and technical aspects relevant to EIAs in marine areas, discussing a proposal to delete reference to areas beyond national jurisdiction. Discussions went on into the night.

**FINANCIAL ISSUES:** The contact group began with general statements focusing on the review of the guidelines on the financial mechanism. While many parties supported the consolidated guidelines proposed in the draft decision, some parties presented suggestions, including on streamlining the outcome-oriented framework related to the utilization of GEF resources for biodiversity with the strategic plan’s objectives. Discussions moved forward to address the assessment of

the amount of funds needed for the implementation of the Convention for the GEF’s sixth replenishment, and continued into the night.

**STRATEGIC PLAN:** Contact group Co-Chair Katerås recalled the WGRI decision that the entire strategic plan remained in brackets. Delegates then considered targets that contained no brackets, but where parties had tabled additional or alternative wording during Working Group II deliberations. Discussions continued into the night.

**GEO-ENGINEERING:** The Friends of the Chair group discussed whether to provide a preliminary understanding of geo-engineering making reference to technologies reducing solar insolation or increasing carbon sequestration from the atmosphere, until a more precise definition can be adopted. Delegates also considered whether to limit the paragraph to geo-engineering “harmful to biodiversity,” and exclude carbon capture and storage. Delegates then debated qualifiers to an exception on scientific research, such as: small-scale, confined, in a controlled environment, within national jurisdiction, subject to prior assessment of potential impacts on the environment, or justified on the need to gather specific data. Discussions continued into the night.

### **IN THE CORRIDORS**

ABS delegates hit the wall on compliance at 5:00 am on Wednesday morning after a full night of informal consultations. During the day rumors spread that some parties did not come to Nagoya with a full mandate to finalize the ABS protocol, which in turn triggered angry comments in the corridors and even in Working Group sessions. Several commented that not having a full mandate would be interpreted as a signal of bad faith, and over the day more and more delegates expressed doubts that a fully fledged protocol can be adopted during COP 10. Nonetheless, the various small groups seemed to prove them wrong, as they made steady progress on difficult issues, including compliance with domestic ABS legislation with regard to TK and even emergency situations and pathogens. When news trickled through in the evening that the small group on compliance was heading towards tangible progress on checkpoints for the first time, spirits rose immediately, and delegates heading to their hotels noted “as long as there is hope on compliance, there is hope for the protocol.”

Such positive attitude also emerged from the discussions on geo-engineering – one of the hot topics outside the “grand package” comprising ABS + strategic plan + financial issues expected to be adopted at COP 10. As delegates made good progress on defining geo-engineering and carving a widely acceptable exception for scientific research, some speculated whether NGOs and countries opposing CBD language on geo-engineering at all, who were notably absent from the small group, would re-open compromise language.

## CBD COP 10 HIGHLIGHTS THURSDAY, 21 OCTOBER 2010

Working Group I considered draft decisions on agricultural biodiversity, biofuels, invasive alien species (IAS), the Global Taxonomy Initiative (GTI) and incentive measures. Working Group II addressed the Global Strategy for Plant Conservation (GSPC) and Article 8(j) (traditional knowledge). ABS negotiations focused on emergency situations, traditional knowledge (TK), compliance and the preamble. Several contact and informal groups met during the day and into the night.

### WORKING GROUP I

Delegates heard reports from the Friends of the Chair groups on sustainable use and geo-engineering, and from the contact group on marine and coastal biodiversity, with all groups requesting additional time to complete their work.

**AGRICULTURAL BIODIVERSITY:** Discussion focused on the second phase of the joint work plan between the CBD and the FAO Commission on Genetic Resources for Food and Agriculture (CGRFA). The PHILIPPINES, ECUADOR, the PACIFIC ISLANDS, the AFRICAN GROUP, the EU, NORWAY and MALAYSIA supported, opposed by AUSTRALIA, work on trends in patents and other intellectual property rights (IPRs). ETHIOPIA drew attention to rights of subsistence farmers in developing countries. NORWAY supported, while JAPAN, INDIA and CANADA opposed, CBD-CGRFA joint work on biofuels and biodiversity. The PHILIPPINES and TURKEY, opposed by ARGENTINA, requested reference to “impacts on land security” in this context.

Delegates debated three options referring to the conservation and sustainable management of biodiversity-rich agricultural areas, without reaching agreement. SWITZERLAND requested increased attention to smallholders and small-scale farmers. The CBD ALLIANCE further emphasized the role of indigenous farmers, and called for land rights security. The IIFB posed questions related to food security and sovereignty, and climate change.

**BIOFUELS:** BRAZIL stated that the Global Bioenergy Partnership (GBEP) is the most appropriate international forum to discuss biofuels, suggesting that the CBD contribute to the UN Energy compilation of policy tools. The AFRICAN GROUP, JAPAN, SWITZERLAND, JAMAICA and INDIA favored a call to ensure ILCs’ land rights and sustainable practices and redress negative impacts on ILCs, while BRAZIL opposed reference to “land rights.”

BRAZIL, the PACIFIC ISLANDS, the DOMINICAN REPUBLIC, JAPAN and EL SALVADOR preferred requesting the CBD to disseminate information on tools on biofuels and biodiversity for voluntary use. The AFRICAN GROUP, SWITZERLAND, KENYA, CUBA and the ARAB COUNTRIES favored instead that the CBD develop a toolkit of standards and methodologies on biofuels and biodiversity. BRAZIL opposed, while the AFRICAN GROUP and the RUSSIAN FEDERATION supported, the development of inventories of “no-go” areas.

**Invasive alien species:** BRAZIL opposed a call to apply the precautionary approach to the production and use of biofuels, and to the use of IAS in biofuel production. The PACIFIC ISLANDS, SWITZERLAND, INDIA, the RUSSIAN FEDERATION and the AFRICAN GROUP favored applying the precautionary approach to the use of IAS in biofuel production and use; while the DOMINICAN REPUBLIC, JAPAN, PARAGUAY, MALAWI, JAMAICA and NEW ZEALAND preferred applying the precautionary approach if species used in biofuel production become invasive.

**Synthetic biology:** BRAZIL opposed convening an AHTEG and requested parties to avoid release of LMOs produced by synthetic biology into the environment. The PACIFIC ISLANDS preferred undertaking an assessment of synthetic biology, rather than convening an AHTEG. NEW ZEALAND suggested that synthetic biology be addressed intersessionally as a new and emerging issue. Chair Hufler established a contact group co-chaired by Ole Hendrickson (Canada) and Giannina Santiago (Colombia).

**INVASIVE ALIEN SPECIES:** Chair Hufler informed delegates that Spain pledged funding for the proposed AHTEG on IAS introduced as pets, aquarium and terrarium species, and as live bait and live food. The EU, BELARUS, NORWAY, THAILAND, the REPUBLIC OF KOREA, COSTA RICA, ARGENTINA and the AFRICAN GROUP, opposed by BRAZIL, AUSTRALIA, MALAYSIA and NEW ZEALAND, recommended that the AHTEG provide practical guidance on the development of international standards. SOUTH AFRICA proposed that the AHTEG develop “scientific and technical” guidance on international standards. TANZANIA proposed reference to ILCs’ involvement in addressing issues of IAS and TK. Supporting the AHTEG, the GLOBAL INVASIVE SPECIES PROGRAMME stressed the need for guidance for national implementation. Chair Hufler encouraged informal consultations to resolve divergence on international standards.

**GLOBAL TAXONOMY INITIATIVE:** Several delegates supported in principle reference to: exchange of taxonomic voucher specimens for non-commercial biodiversity research, and regional and subregional scientific and technical collaboration in accordance with relevant national legislation; and priority for funding to support taxonomic capacity to inventory and monitor biodiversity, including the use of new technologies, such as DNA barcoding. Pending negotiations on the ABS protocol and on guidance to the financial mechanism, delegates decided to leave these in brackets. TANZANIA stressed the need for incentives to professional taxonomists. BRAZIL called for protection of national taxonomic collections in developing countries.

**INCENTIVE MEASURES:** Many parties supported deleting text urging parties and others to prioritize and significantly increase their efforts in actively identifying and removing or mitigating existing perverse incentives. There was, however, no agreement on the inclusion of specific references to industries. Delegates also considered text on the implementation of sustainable consumption and production patterns. CANADA, supported by SWITZERLAND, proposed to reference the TEEB study.

## WORKING GROUP II

### GLOBAL STRATEGY FOR PLANT CONSERVATION:

MALAYSIA supported the updated GSPC and targets, with the PHILIPPINES adding that they should correspond to the post-2010 targets in the strategic plan. JAPAN welcomed the more outcome-oriented targets. The EU stressed the need to include protection of plant diversity into national policies and the contribution of diverse croplands to food security. MEXICO and NEW ZEALAND welcomed the GSPC as a flexible framework to be adapted to national and local priorities and, with the PHILIPPINES, SINGAPORE and BENIN, drew attention to fungi. COSTA RICA highlighted linkages of the GSPC with biofuels and climate change. FAO pointed to synergies at the national level between GSPC and related areas such as agriculture. BENIN suggested including pollinators. CANADA requested further work on the technical rationale for the GSPC. GUATEMALA called for integration of indigenous knowledge and more holistic approaches. INDONESIA and SOUTH AFRICA stressed capacity building, with ZIMBABWE calling for focus on TK in the use and taxonomy of plants.

BRAZIL, TIMOR LESTE and others underscored the need for financing and technology transfer. The AFRICAN GROUP and others supported the proposal to seek resources for a Secretariat post for GSPC coordination beyond 2010. Pointing to the lack of taxonomists, the REPUBLIC OF KOREA called for international exchange of experts and expertise. SOUTH AFRICA stressed inclusion of crucial biological information in public access databases.

**ARTICLE 8(J): ILC participation:** The EU and the AFRICAN GROUP stressed capacity building and full and effective participation of ILCs in all CBD decision-making processes, with BRAZIL pointing to the special role of indigenous women in TK preservation. PERU underscored PIC as part of ILCs' management regimes and called for capacity building especially on negotiating ABS arrangements. INDONESIA called for the protection of ILCs' rights to TK and fair and equitable benefit-sharing. The AFRICAN GROUP stated that ILCs should reap the benefits of TK use.

**Article 8(j) MYPOW:** The EU and CANADA supported: the inclusion of a component on CBD Article 10 (sustainable use) with a focus on 10(c) (customary use); an international meeting on the issue; and an in-depth dialogue on thematic areas and cross-cutting issues, suggesting, with NORWAY and BOLIVIA,

climate change as the first item for Article 8(j) Working Group 7. BRAZIL opposed, recalling UNFCCC's mandate. MEXICO stressed the need for adequate resources for the Article 8(j) MYPOW and THAILAND proposed requesting the GEF to provide support for related activities. The EU and BRAZIL supported an AHTEG on common characteristics and effective participation of local communities. The REPUBLIC OF KOREA called for a definition of TK and its scope, and of ILCs' legal status. UNESCO proposed indicators on linguistic diversity.

**Sui generis systems:** The EU called for full ILC participation and, with NEW ZEALAND, recommended that the Secretariat continue to inform the WIPO IGC on CBD work in that regard. The AFRICAN GROUP said that knowledge accessed through *sui generis* systems should be protected to ensure benefit-sharing. BOLIVIA and the IIFB drew attention to the limited progress on development of *sui generis* systems and urged for working jointly with indigenous peoples.

**Code of ethical conduct:** The EU called for adoption of the code to guide interactions with ILCs and protect TK. INDIA suggested awaiting the outcome of the ABS negotiations. BOLIVIA and the IIFB requested reference to free PIC of indigenous peoples in accordance with UNDRIP. BRAZIL supported the inclusion of PIC, rather than references to "approval and involvement of ILCs." She also called for careful consideration of outstanding references to lands and waters traditionally occupied or used, to ensure that the code will apply to any activity affecting ILCs. MOROCCO suggested considering ILC laws, practices and protocols, and recognizing TK as a tool for conservation. CANADA suggested informal consultations to address outstanding issues.

### INFORMAL CONSULTATIVE GROUP ON ABS

**EMERGENCY SITUATIONS:** Small group Co-Chair de Carvalho Neto reported on outstanding issues with regard to the definition of emergency situations and the need to include reference to specific international organizations addressing potential damage to human, animal or plant health. In the afternoon, the small group narrowed down options for describing emergencies to "present" or "imminent" emergencies.

**TRADITIONAL KNOWLEDGE:** Small group Co-Chair Lowe reported on progress on appropriate measures for compliance with domestic ABS legislation on TK associated with genetic resources (Article 12 *bis*), with outstanding issues regarding references to derivatives and whether to refer to parties' or countries' legislation. Upon a request by CANADA, delegates agreed to requesting parties to take "appropriate measures, as appropriate."

On assessment of the effectiveness of Articles 12 *bis* and 9.5 on publicly available TK, the EU requested inserting, in the COP decision, language stating that the assessment should be carried out "in the light of developments at the international level, in particular work conducted under WIPO." All developing country regions opposed referencing WIPO. Delegates discussed options to broaden the provision, and eventually agreed to refer to "work achieved under other international organizations, *inter alia*, WIPO, provided that these do not run counter to the objectives of the Convention or the protocol."

A small group on the provision on publicly available TK did not resolve outstanding issues, as delegates disagreed over: whether or not to include language describing publicly available TK; and whether or not to use binding or non-binding language with regard to the measures that parties should take.

**PREAMBLE:** In the afternoon, ICG discussions on preambular paragraphs were suspended, as several regional groups requested time to consult on new text that had been proposed in a small group on Wednesday.



**COMPLIANCE:** In the morning, the small group considered, without reaching agreement, language on checkpoints, including on: consequences of the failure to provide relevant information; whether to require or encourage users and providers to address implementation and reporting in MAT; and language on encouraging the use of cost-effective communication tools for monitoring or also tracking and reporting the utilization of genetic resources. Delegates then debated the usefulness of databases to support compliance, with most developing countries preferring deletion, without reaching agreement.

In the afternoon, delegates addressed an access-related measure regarding issuance of a permit or certificate as evidence of the decision to grant PIC and of the establishment of MAT (article 5(2)(d)). Delegates recognized that the provision refers to a national permit and the need to avoid confusion with the internationally recognized certificate of compliance. A lengthy discussion ensued, focusing on whether issuance of the permit should take place “at the time of access,” with developed countries supporting retaining the reference for legal clarity. Discussion then focused on possible duplication and the need for consistency between: the permit referenced under article 5(2)(d); the permit referenced under article 13(2), stating that the permit made available to the ABS CHM shall constitute an internationally recognized certificate of compliance; and two paragraphs requiring parties to make PIC decisions available to the ABS CHM (articles 5(3) and 11(2)(c)). Noting that the permit under 5(2)(d), following registration with the CHM, constitutes the international certificate of compliance, delegates attempted to clarify the relation between the provisions. Some proposed deleting article 5(3) to avoid confusion. Others wished to ensure that the protocol creates a mandatory obligation for a party to make its PIC decision available and issue an internationally recognized certificate. Following closed consultations, delegates introduced a footnote under articles 5(3) and 11(2)(c), noting that the provisions need to be finalized considering the relation between them and to articles 5(2)(d) and 13(2).

#### **CONTACT GROUPS AND INFORMALS**

**CLIMATE CHANGE:** Delegates discussed options to advance collaboration among the Rio Conventions, focusing on whether to: request parties or the Secretariat to take the lead; refer to a joint work programme, or only to joint activities; and outline as interim steps a joint preparatory meeting and a joint COP. Several parties and one non-party expressed concern about the already over-burdened agenda of the UNFCCC.

Delegates considered: eliminating reference to the joint work programme; mentioning the difference in mandate and membership of the Rio Conventions; and consulting the bureau of the preparatory process of the Rio+20 Summit on developing its agenda, and submitting the outcome to the respective COPs. Chair Benitez proposed forming a small group to continue discussions, and resuming the contact group on Friday to address outstanding text on REDD+.

**STRATEGIC PLAN:** Delegates addressed the strategic goals and the 2020 headline targets. Discussions started off with the target on the values of biodiversity to be integrated into national and local development and poverty reduction strategies and planning processes. Some developed countries supported integration of biodiversity values into “national accounts,” others proposed reference to “national accounting and reporting framework,” while others preferred “systems.” Many developing countries were cautious about references to national accounts, whereas others pointed to the advantages of accounting for biodiversity values. Delegates finally agreed to refer to “national

accounting and/or reporting systems” with “or” remaining in brackets, since some developed countries insisted on requiring both.

Regarding the target on incentives, all countries agreed to references to positive incentives. While developing and many developed countries favored strong reference to elimination of subsidies, other developed countries opposed that. Finally, delegates agreed to state that “by 2020, at the latest, incentives, including subsidies, harmful to biodiversity, are eliminated, phased out or reformed, in order to minimize or avoid negative impacts.” References to consistency with international obligations were left to a smaller group. Negotiations continued into the night.

**FINANCIAL ISSUES:** The group addressed a Co-Chairs’ proposal on the financial mechanism, which included text agreed by WGRI 3. Delegates addressed the review of guidance to the financial mechanism, including annexed consolidated guidance. Delegates did not agree on provisions referring to previous decisions and elements of decisions related to the financial mechanism and on retirement of decisions, and decided to revisit the section on Friday. Delegates then considered part of the decision referring to the TORs for the assessment of funds needed for CBD implementation for the GEF’s sixth replenishment. Discussions continued into the evening.

#### **IN THE CORRIDORS**

“Crisis, this is a crisis! They just haven’t realized it yet,” mumbled a disillusioned ABS participant on his way out of the meeting room on Thursday evening. After a day of treading water on almost all issues, delegates became visibly nervous as the deadline to report to plenary on Friday was almost upon them. Tensions rose as evening discussions on compliance were stalled over cross-references to permits and certificates, the resolution of which some considered “essential” for moving on, while others described it as a “strategic move.” As night fell over Nagoya, delegates were “saved by a footnote,” allowing them to continue deliberations. Getting ready for another late night session, one delegate exclaimed “We will die one way or the other! If it is not compliance, the pathogens will kill us!” referring to the most contentious debate regarding the ABS protocol’s relationship with other agreements, due to be finalized on Friday morning.

Following the launch of the TEEB study, accounting seemed to be pervading the corridors. Accounting for biodiversity values in national accounts was included under the strategic plan. Elsewhere, many discussed what ABS activities must be provided for in the CBD core budget. The proposal not to include any, in hopes of addressing the operational requirements of an international ABS regime in a supplementary budget after the regime’s adoption was termed “optimistic” by some and “inadequate” by others; but all seemed to agree that one way or another, substantive funds would be required for ABS activities in the next biennium.

Meanwhile, under WG I, a drafting group was tackling a package of provisions concerning the role of the CBD vis-à-vis the UN General Assembly in addressing marine biodiversity in areas beyond national jurisdiction. Delegates speculated whether the proposal of developing a global inventory of marine areas in need of protection in areas beyond national jurisdiction will see the light of day. Informal exchanges also continued on a possible moratorium on geo-engineering, with conjecture surrounding the possible fate of one of the conditions for lifting the moratorium, namely the setting up of a global regulatory framework.



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## CBD COP 10 HIGHLIGHTS FRIDAY, 22 OCTOBER 2010

Working Group I considered draft decisions on mountain biodiversity and inland waters. Working Group II addressed draft decisions on GBO 3, implementation of the Convention and the strategic plan, national reporting and the MYPOW. ABS negotiations focused on emergency situations, TK, compliance and the preamble. Several contact and informal groups met during the day and into the night.

### WORKING GROUP I

**MOUNTAIN BIODIVERSITY:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.1). The EU proposed adding preambular language underlining that the implementation of the work programme needs to be in line with the three CBD objectives and, opposed by INDONESIA, BRAZIL and CHINA, deleting references to benefit-sharing in the operative text. Following informal consultations, delegates agreed to include new preambular language referring to implementing “the three CBD objectives in a balanced manner,” and to further use it to replace references to conservation, sustainable use and benefit-sharing in the operative parts of the decision.

NEW ZEALAND proposed, and delegates agreed, to “encourage,” rather than “request,” parties to promote agriculture, forestry and ranching practices compatible with sustainable mountain development. CHINA, opposed by CANADA, COSTA RICA and others, proposed deleting reference to developing regional strategies on “animals that could cause conflict with humans, in particular large predators.” Following informal consultations, delegates agreed to include the language in a broader provision encouraging regional collaboration.

NEW ZEALAND, opposed by the EU and the AFRICAN GROUP, proposed deleting references to people’s well-being. Delegates eventually agreed to refer to “providing ecosystem services thus contributing to ensuring the well-being of people.” Delegates approved the draft decision with these and other minor amendments.

**INLAND WATERS:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.2). Delegates agreed to define payment for ecosystem services in a footnote. NEW ZEALAND expressed concern that poverty mitigation is beyond the CBD

mandate. Chair Hufler suggested, and delegates agreed, to refer to the CBD’s role in contributing to poverty alleviation. PERU and JAMAICA noted that discussions on national accounting were ongoing under the strategic plan, and requested bracketing respective references.

Discussions then focused on the definition of “water security.” Delegates considered inserting an overarching definition in a footnote. BRAZIL, the EU and others preferred addressing the issue on a case-by-case basis, and delegates agreed. AUSTRALIA, supported by the AFRICAN GROUP, proposed using language from Agenda 21. A paragraph dealing with the water supply for growing urban populations was amended to read: “to supply efficient, appropriate quality water thus contributing to water supply in urban areas.” After failing to reach an agreement on how to include water security in a paragraph concerning science-policy coordination, WG I adjourned for the weekend.

### WORKING GROUP II

**PROGRESS TOWARD THE 2010 BIODIVERSITY TARGET AND THE GBO:** Delegates considered a draft decision on GBO 3 (UNEP/CBD/COP/10/WG.2/CRP.1). The EU called for bracketing provisions requesting the Secretariat to undertake GBO-related activities pending parallel discussions on financial issues. BRAZIL, MEXICO, SOUTH AFRICA and others opposed, noting that the activities were subject to the availability of financial resources. Following discussion, delegates inserted a footnote stating that the provision is subject to parallel discussions on financial issues.

The EU, opposed by BRAZIL, MEXICO, ECUADOR and SOUTH AFRICA, requested bracketing a provision concerning liaison and synergies with IPBES, if and when established. AUSTRALIA, supported by the EU, proposed moving all references to IPBES in the decision on the operations to the Convention. Following discussion, the EU agreed to remove the brackets provided that the reference “if and when established” was deleted.

**IMPLEMENTATION OF THE CONVENTION AND THE STRATEGIC PLAN:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.2). GHANA suggested preambular references on the role of other biodiversity-related conventions in the strategic plan’s implementation and on involving their focal points in the revision of NBSAPs. The EU suggested that capacity-building

activities, an in-depth analysis of the failure to meet the 2010 target and the development of guides on the integration of biodiversity into relevant sectors be “subject to availability of financial resources.” BRAZIL, JORDAN, MALAYSIA, KENYA and others opposed. KENYA stressed the need for substantive financial resources to implement ambitious targets. The GAMBIA warned against using financial resource considerations to limit issues that need to be addressed. The EU explained their concern was not to prejudge discussions in the budget group. MEXICO insisted that priorities are set by the working groups, not the budget group. Noting that all COP decisions are subject to availability of funds, ZIMBABWE proposed to “park” references to availability of funds. Delegates will revisit the draft decision.

**NATIONAL REPORTING:** Delegates discussed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.3). The EU proposed that the guidelines for the fifth national report may be supplemented by additional guidance from COP 11.

On the report’s format, NEW ZEALAND proposed to refer first to use of common formats, then to the use of narrative formats, where appropriate. CANADA expressed concern about use of common formats, pointing to the need for flexibility. JORDAN opposed a reference making translation of the manual for report preparation subject to availability of funds, and the EU agreed to remove it. Regarding a request to parties to start work as soon as possible, LIBERIA pointed to difficulties in obtaining the required funds from the financial mechanism in a timely manner. Chair Luna indicated that the Secretariat will revise the draft decision accordingly.

**MYPOW AND PERIODICITY OF MEETINGS:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.4). With regard to the agendas of COP 11 and 12, SOUTH AFRICA, MALAYSIA, BENIN and BURKINA FASO requested removing the brackets around the ABS protocol and adding reference to its implementation.

The EU, MEXICO, UKRAINE, JAPAN, MALAYSIA, GEORGIA and others supported the option to keep under review the periodicity of COP meetings beyond 2014. The EU and JAPAN requested bracketing a clause on holding two intersessional SBSTTA meetings until COP 12, pending discussions on financial issues. MEXICO, MALAYSIA and GEORGIA opposed. WG II then adjourned for the weekend.

#### **INFORMAL CONSULTATIVE GROUP ON ABS**

**PREAMBLE:** During ICG discussions, CANADA requested keeping a paragraph on UNDRIP in brackets, indicating no change in their instructions to oppose such. On a paragraph affirming that nothing in the protocol shall be construed as diminishing or extinguishing the existing rights of ILCs, delegates agreed to delete “existing” and “or extinguishing,” to avoid discussions on alternative amendments proposed by CANADA, NEW ZEALAND and GRULAC.

**COMPLIANCE:** The small group discussed a proposal by Co-Chairs Shikongo and Lago, stating that users of genetic resources shall provide information at the designated checkpoints as required by domestic legislation, and that failure to provide relevant information would affect the related application from further processing. Delegates agreed to reflect the proposal in the text, with a footnote explaining that the proposal has not been agreed or negotiated but has been recognized as the basis for further work and would replace language under checkpoints

(article 13(1)(a)), the international certificate (article 13(3)), and the provision on non-compliance with mandatory disclosure requirements (article 13 *bis*).

The group held a preliminary discussion on a provision regarding an international ABS ombudsperson (article 14 *bis*). Some delegates welcomed the concept and the need to provide technical and legal support, highlighting similar tools at the national level, and proposed to establish it and elaborate on its *modus operandi* post-adoption. Some developed country delegates highlighted legal issues regarding: links between an international ombudsperson and domestic situations; and linkages with, and possible duplication of, the compliance-related provisions of articles 12-14.

A closed group was established to address outstanding issues, including on checkpoints, disclosure requirements and the international certificate.

**PUBLICLY AVAILABLE TK:** Delegates agreed to state that parties shall, “as appropriate, take measures” so that TK users enter into benefit-sharing agreements, but could not agree on a number of smaller issues and new amendments, necessitating further informal consultations.

#### **PLENARY**

WG I Chair Hufler reported approval of a draft decision on mountain biodiversity, noting that contact and informal groups continued working on marine biodiversity, climate change, biofuels and geo-engineering. WG II Chair Luna noted approval of several draft decisions and progress on the strategic plan and the resource mobilization strategy. ICG Co-Chair Casas outlined progress on the draft ABS protocol and pending issues, including on cross-cutting items, compliance and scope. Co-Chair Hodges recommended extending the ICG’s deadline and requested delegates to revisit their instructions.

The REPUBLIC OF KOREA called on delegates to redouble efforts to conclude an international ABS protocol. The EU and GRULAC supported extending the ICG’s mandate, with the AFRICAN GROUP stressing the need to urgently work on a protocol acceptable to all. Plenary then approved extension of the ICG’s mandate, to allow for weekend consultations. Budget group Chair Hunter reported on steady progress and outstanding issues, noting that two major meetings may require voluntary funding.

CIVIL SOCIETY representatives called for adopting an ABS protocol with strong enforcement and compliance measures, ensuring respect for ILCs and UNDRIP. She also urged to avoid risky approaches, including perverse incentives, the Green Development Mechanism and geo-engineering. YOUTH representatives urged the provision of additional and adequate financial resources to halt biodiversity loss and adopt an ambitious 2020 target.

**ORGANIZATIONAL MATTERS:** Plenary approved the following nominations for the COP 10 Bureau: Snežana Prokić (Serbia) and Ioseb Kartsivadze (Georgia) for the CEE Group; Akram Eissa Darwich (Syria) and Chan-woo Kim (Republic of Korea) for Asia-Pacific; Spencer Thomas (Grenada) and José Luis Suter (Argentina) for GRULAC; and Andrew Bignell (New Zealand) for WEOG; with the African Group and the EU to submit their nominations at a later stage. Plenary then heard a report on credentials.

**CONTACT GROUPS AND INFORMALS**

**GEO-ENGINEERING:** Delegates made progress on a definition of geo-engineering and considered placing it in a footnote. They then discussed new text requesting the Secretariat to study mechanisms for transparent and effective control and regulatory framework for geo-engineering for COP 11 consideration, debating whether such mechanisms already exist and whether they focus on climate-oriented geo-engineering related to biodiversity.

Delegates further discussed the wording of a possible moratorium, considering an exception for small-scale, scientific research that would be conducted in a controlled setting, debating whether it should also be: in a “confined” environment; subject to national jurisdiction or authorized by national authorities; or ensuring that no transboundary harm will be caused. One party, opposed by others, proposed referring to avoiding “substantial” transboundary harm. NGO representatives cautioned against violating international law. Chair Korn proposed making reference to CBD Article 3 on ensuring that activities within CBD parties’ jurisdiction or control do not cause damage to the environment of other states or beyond national jurisdiction. Delegates also briefly debated the extent to which a CBD COP decision could address geo-engineering in areas beyond the limits of national jurisdiction. Chair Korn suggested that the Secretariat produce a revised non-paper for further consideration.

**CLIMATE CHANGE:** Delegates continued discussing language on cooperation among the Rio Conventions, and agreed on: a request to the Secretariat to convey a proposal to develop joint activities to the other Rio Conventions’ Secretariats; and an invitation to the respective COPs to explore the possibility of convening a joint preparatory meeting prior to the Rio+20 Summit and consult the Summit preparatory process Bureau on such preparatory work.

Delegates then considered text on REDD+, debating references to land tenure, ILCs’ rights, biodiversity co-benefits and ecosystem services. Some delegates expressed concern about referring to “biodiversity safeguards” noting that this is not agreed under UNFCCC, cautioning against prescriptive language that would prejudge ongoing UNFCCC negotiations. One developed country argued that avoiding negative impacts on ILCs is beyond the CBD mandate. Delegates then considered revised text on enhancing benefits for, and avoiding negative impacts on, biodiversity from REDD+, taking into account the need to ensure ILC participation in policy-making and implementation, and to consider land ownership and land tenure in accordance with national legislation. An ILC representative and a group of developed countries requested keeping the original language as an alternative.

**STRATEGIC PLAN:** Delegates addressed the strategic goals and the 2020 headline targets. On a target referring to the prevention of extinction and decline of known threatened species, parties disagreed on whether to: include extinction and/or decline of species; and include a 2020 baseline at the national level or a global target. Delegates also disagreed on the target itself. Some developing countries pointed to challenges to achieve ambitious targets in preventing species extinctions at the national level, taking into account poor results of *ex situ* conservation. Negotiations continued into the night.

**FINANCIAL ISSUES:** The group continued discussions on a Co-Chairs’ proposal on the financial mechanism. Delegates addressed the review of guidance to the financial mechanism,

including annexed consolidated guidance. Some developing countries suggested amendments to the consolidated guidance, but were warned against reopening text agreed at COP 9 and WGRI 3. A developing country proposed, and parties agreed, to include additional text on inviting parties and relevant stakeholders, including ILCs, to submit information and views on the further development of programme priorities. Discussions turned to the TORs for a full assessment of funds needed for CBD implementation for the GEF’s sixth replenishment. Discussions continued into the night.

**ARTICLE 8(J):** In a Friends of the Chair group, delegates agreed to keep in brackets a reference to the relation of *sui generis* systems to the establishment of an ABS protocol, pending the ABS negotiations. Regarding a workshop on customary use, delegates discussed inviting submissions on the issue, preparation of meeting documentation and whether the outcome of the workshop should be integrated into the Article 8(j) MYPOW. Regarding the in-depth dialogue at Article 8(j) Working Group 7, one delegation proposed focusing on modalities for benefit-sharing, whereas most preferred it focus on climate change. In that regard, delegates discussed whether mitigation should be considered along with adaptation. Delegates discussed rewording the provision to refer to TK on adaptation and ILCs’ views on climate change mitigation. Delegates then discussed into the night bracketed references in the draft code of ethical conduct referring to “lands and waters traditionally occupied” by ILCs; and their PIC or alternatively “approval.”

**IN THE CORRIDORS**

Friday’s stock-taking plenary revealed which issues are “hot” besides ABS, the strategic plan and financial issues: the “climate troika” of REDD+, biofuels and geo-engineering, each addressed in a separate small group. Some commented that the atmosphere in these groups resembled the “word by word and comma by comma” negotiations of the ABS process, muttering “there are real issues at stake here.” Others felt that such rigour was exaggerated as “there is only so much that the CBD can do on these issues. The *real* decisions will be taken in other fora, most notably the UNFCCC.” Movement on geo-engineering and collaboration among the Rio Conventions, however, contrasted with discussions on marine biodiversity in areas beyond national jurisdiction, REDD+ and the development of international standards related to invasive alien species, seen by many observers as “going in circles.”

While work continued in small groups in the evening, ABS delegates were ordered to “have a nice dinner and get some rest,” as the Co-Chairs feared that additional night sessions would lead to the deterioration of the positive spirit that had characterized the ABS negotiations during the first week. Several participants suggested that the break is badly needed as parties need to consult capitals both on core issues, such as mandatory disclosure, checkpoints and emergency situations, as well as seemingly innocuous ones, such as a bracketed preambular reference to UNDRIP. Some noted that such a reference should be a “no-brainer” in a treaty so important for ILCs, raising concerns that repeated discussions on the issue use up valuable time that should be spent on resolving the nuts and bolts of the regime. Most felt that if the ABS negotiations trip, it will be over compliance-related issues, but were still worried that possible irritations on other issues could easily upset the delicate balance between tough negotiations and trust-building exercises.



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A Knowledgebase of UN and Intergovernmental Activities Addressing International Biodiversity Policy



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## Biodiversity Policy & Practice:

A Knowledgebase on UN and Intergovernmental Activities Addressing International Biodiversity Policy

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## CBD COP 10 HIGHLIGHTS MONDAY, 25 OCTOBER 2010

A morning plenary heard a report on weekend consultations on ABS. Working Groups I and II addressed draft decisions on several agenda items. The ABS negotiations focused on compliance, the preamble and emergency situations (article 6). Several contact and informal groups met during the day and into the night.

### PLENARY

ICG Co-Chair Casas reported on weekend consultations on ABS, highlighting: significant progress achieved on access (article 5); unresolved issues regarding utilization and derivatives, addressed under the use of terms (article 2(c)); some progress on scope, reflected in shorter and better organized text, with outstanding issues remaining on temporal and jurisdictional scope (article 3); and progress regarding compliance-related issues (articles 13-14 *bis*). Plenary then approved an extension of the ICG's mandate.

### WORKING GROUP I

Delegates heard reports from the contact groups on marine biodiversity and on biofuels, and the Friends of the Chair group on geo-engineering, all of which requested more time to complete deliberations. Hesiquio Benitez, Chair of the contact group on climate change, suggested submitting the outcomes of the contact group to the Working Group, noting progress on text on collaboration with the Rio Conventions, and three options on REDD+. Chair Hufler established a Friends of the Chair group to continue deliberations on REDD+.

**INLAND WATERS:** Delegates continued consideration of a draft decision focusing on references to payments for ecosystems services, the link between inland waters biodiversity and biodiversity in dry and sub-humid lands, and water security. BRAZIL reiterated the need to define the term "water security." The EU suggested replacing the term with "adequate quantity and quality water supply." Delegates eventually agreed to recognize the need for enhanced science-policy coordination and integration between natural and socioeconomic sciences, notably between the inter-related subjects of biodiversity, amongst others, adequate quantity and quality water security, poverty reduction, sustainable development and the achievement of the MDGs. Delegates adopted the draft decision as amended.

**PROTECTED AREAS:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.3).

**Strengthening implementation:** The EU, with the DOMINICAN REPUBLIC and ALGERIA, requested referring to "in accordance with their management objectives" in paragraphs calling for sustainable use within PAs. On increasing awareness on PA benefits, delegates agreed to make reference to the achievement of climate change adaptation and mitigation and the MDGs, including poverty alleviation.

**Sustainable finance:** On a call to parties to express their funding needs, delegates agreed to also reference the LifeWeb Initiative, and to urge donors and countries in a position to do so to support funding needs. Delegates agreed to forward all text proposing guidance to the GEF to the group dealing with financial issues.

**Climate change:** Delegates agreed to: lift the brackets on text calling for developing tools for use by relevant national authorities and stakeholders for planning of PA networks and climate change adaptation and mitigation measures; and substitute a request to the Secretariat to convene a special meeting of the Joint Liaison Group on the role of PAs, with one to ensure inclusion of the role of PAs when conveying a proposal to develop joint activities among the Rio Conventions.

**Other issues:** Delegates decided to bracket text regarding MPAs, pending the outcome of the marine biodiversity contact group. On restoration of PA ecosystems and habitats, after a discussion on the scope of ecological corridors, PERU, with BRAZIL, proposed the inclusion of "conservation measures" in text urging parties to increase effectiveness of PA systems. Regarding collaboration with the IUCN World Commission on PAs and other partners to explore and evaluate existing methodologies and guidelines for measuring the values, costs and benefits of PAs, BELARUS proposed adding a request to the Secretariat to develop methodological indicators. Delegates approved the draft decision as amended.

**SUSTAINABLE USE:** Delegates addressed a draft decision (UNEP/CBD/COP/10/WG.1/CRP.4). CANADA requested, and delegates agreed to, "take note of," rather than "welcome," the recommendations of the Liaison Group on Bushmeat and refer to the respective SBSTTA document (UNEP/CBD/SBSTTA/14/7) rather than annex the recommendations to the decision. Regarding an invitation to parties to make use of the LifeWeb initiative as a clearing-house for financing PAs, BRAZIL,

CHINA and the EU suggested, and delegates eventually agreed on, replacing specific reference to IUCN categories or other classifications, by “as appropriate.”

PERU proposed welcoming and strengthening initiatives that link biodiversity, development and poverty eradication, and UNCTAD’s BioTrade Initiative. The EU suggested requesting the Secretariat to compile information on how to improve sustainable use of biodiversity from a landscape perspective, including on sectoral policies, international guidelines, certification schemes and best practices for sustainable forestry and agriculture. Delegates agreed to the proposal, with the exclusion of reference to certification schemes that was opposed by BRAZIL. Delegates debated, without reaching consensus: an invitation to encourage effective market-based instruments and an indicative list of such instruments, in particular references to the polluter-pays principle and traceability mechanisms; and a reference to experimental models for sustainable use at the ecosystem scale. Deliberations will continue on Tuesday.

### **WORKING GROUP II**

Robert Lamb (Switzerland), Co-Chair of the contact group on financial issues, reported on progress in addressing the financial mechanism and the resource mobilization strategy. He said a Friends of the Co-Chairs group continued working on indicators and targets for the resource mobilization strategy.

Asghar Fazel (Iran), Co-Chair of the contact group on the strategic plan, reported that the group reached agreement on the 2050 vision, including a reference to maintenance of ecosystem services and nine headline targets, and continued work on outstanding targets. He further reported that a small group is working on the 2020 mission. SBSTTA Chair Spencer Thomas (Grenada) recalled intensive work on the headline targets at SBSTTA 14, and urged delegates not to undermine the integrity of the SBSTTA outcome and duplicate its work.

**GBO 3:** Delegates adopted the draft decision on GBO 3 implications for future CBD implementation (UNEP/CBD/COP/10/WG.2/CRP.1) as amended during previous Working Group discussions.

**IMPLEMENTATION OF THE CONVENTION AND THE STRATEGIC PLAN:** Delegates considered a revised draft decision (UNEP/CBD/COP/10/WG.2/CRP.2/Rev.1). They discussed a preambular reference to CBD Articles 16 (Technology Transfer), and 20 (Financial Resources), and agreed to add reference to Article 21 (Financial Mechanism). BRAZIL requested, and delegates agreed to, a reference to the resource mobilization strategy. Delegates adopted the draft decision with references to financial resources remaining in brackets.

**NATIONAL REPORTING:** Delegates adopted a revised draft decision (UNEP/CBD/COP/10/WG.2/CRP.3/Rev.1) with minor amendments referring to integrated, rather than harmonized, reporting.

**MYPOW AND PERIODICITY OF MEETINGS:** Delegates continued considering the draft decision (UNEP/CBD/COP/10/WG.2/CRP.4). PARAGUAY and CANADA supported keeping the periodicity of COP meetings beyond 2014 under review. The draft decision was approved, with brackets remaining around periodicity of SBSTTA meetings.

**BIODIVERSITY AND POVERTY ERADICATION:** Delegates discussed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.5). COLOMBIA, supported by SWITZERLAND, NORWAY and UGANDA, called for a reference to the UNCTAD BioTrade Initiative. BRAZIL proposed to “note,” rather than “welcome,” ongoing initiatives linking biodiversity, development and poverty eradication, whereas the EU proposed

to refer to synergies between such initiatives. The EU, supported by NORWAY, further requested making all proposals requiring additional financing subject to available financial resources. The AFRICAN GROUP opposed, and the reference was retained in brackets. The draft decision was then adopted as amended.

**NEW AND EMERGING ISSUES:** Delegates adopted a draft decision (UNEP/CBD/COP/10/WG.2/CRP.7), except for a paragraph inviting parties to submit information on synthetic biology and geo-engineering for SBSTTA consideration.

**RETIREMENT OF DECISIONS:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.8). NORWAY proposed retaining paragraph 24 of Decision V/5 (Agricultural Biological Diversity), which encourages parties to consider how to address generic concerns regarding genetic use restriction technologies under international and national approaches to the safe and sustainable use of germplasm. BRAZIL proposed reference to paragraph 16 of Decision IX/29 (Operations of the Convention) on requesting the Secretariat to maintain the full text of all decisions on the CBD website while indicating elements that have been retired. The decision was approved as amended.

**TECHNOLOGY TRANSFER AND COOPERATION:** Delegates addressed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.9). The EU, opposed by UGANDA, proposed that a request to the Secretariat to analyze and disseminate information on current activities and gaps be subject to available financial resources, which remained in brackets. The EU further proposed that the results of the gap analysis, together with a compilation of technology needs assessments provided by parties, be made available to COP 11. The draft decision was adopted as amended.

**UN DECADE ON BIODIVERSITY:** Delegates adopted the draft decision (UNEP/CBD/COP/10/WG.2/CRP.10) without amendment.

**GENDER MAINSTREAMING:** Delegates adopted the draft decision (UNEP/CBD/COP/10/WG.2/CRP.11) with a bracketed reference subjecting to available financial resources Secretariat work on implementing the gender plan of action.

**CEPA AND IYB:** Delegates discussed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.12). THAILAND reiterated its request to include a reference to regional and sub-regional assessments. Delegates adopted the draft decision as amended, with ABS-related references in brackets.

**BUSINESS ENGAGEMENT:** Delegates adopted a draft decision (UNEP/CBD/COP/10/WG.2/CRP.13), with a bracketed reference subjecting all work to the availability of financial resources, as requested by the EU.

**SCIENTIFIC AND TECHNICAL COOPERATION AND THE CHM:** Delegates discussed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.14). CHINA reiterated its request to improve internet-based communication and ensure translation into all official UN languages. Regarding conservation commons, the EU requested to “promote” free and open access to biodiversity-related data; and BRAZIL asked to refer to information and data for conservation purposes instead. The draft decision was adopted as amended, with references to financial resources remaining bracketed.

**OUTCOME-ORIENTED GOALS AND TARGETS:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.15), with the EU noting that it could not support the request to the GEF to provide support for capacity-building of eligible parties. Delegates adopted the draft decision without amendments, noting the EU’s comment.



**ARTICLE 8(J): ILC participation:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.16). The EU requested subjecting to available financial resources requests to the Secretariat to continue to develop community education and public awareness materials, and electronic communication mechanisms. The draft decision was adopted with the reference to financial resources in brackets.

**Sui generis systems:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.17), focusing on the relation of CBD work on *sui generis* systems with the ABS protocol, without reaching consensus. The decision was adopted, with references to ABS remaining in brackets.

**GSPC:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.18). Noting discussions in the budget group, the EU proposed deleting a request to the Secretariat to seek the resources necessary for creating a Secretariat post on the GSPC. BRAZIL and JORDAN opposed, with BURKINA FASO and MEXICO noting that funding could be obtained from sources other than the core budget. The paragraph remained in brackets.

On the GSPC's objectives, the EU suggested making only a general reference to the three CBD objectives, rather than referring to the conservation and sustainable use of plant diversity, and to fair and equitable sharing of the benefits arising from the utilization of plant genetic resources. BRAZIL, MALAYSIA and others opposed. SINGAPORE supported by INDONESIA, suggested including fungi in the GSPC. The draft decision was adopted as amended, with bracketed text remaining for later consideration.

**SOUTH-SOUTH COOPERATION:** Delegates considered a draft decision on the MYPOW for South-South cooperation (UNEP/CBD/COP/10/WG.2/CRP.19), with the REPUBLIC OF KOREA highlighting agreement on a roadmap on South-South cooperation with the CBD Secretariat, and expressing readiness to host an expert meeting in 2011. JAPAN noted that he did not have a mandate to support the operative paragraph inviting the GEF to establish a South-South biodiversity cooperation trust fund. Delegates then adopted the draft decision noting Japan's concerns.

#### **INFORMAL CONSULTATIVE GROUP ON ABS**

In the morning, Alejandro Lago, Co-Chair of the small group on compliance, reported on weekend negotiations, highlighting limited progress on: the minimum content of the international certificate of compliance; the requirement to provide information to checkpoints; and a possible list of checkpoints. He called on parties not to return to previous national and regional positions but to build on common ground reached, noting that not all issues need to be detailed in the protocol. ICG Co-Chair Hodges reported on ongoing consultations on utilization and derivatives, noting they have not yet resulted in agreement. He then called for the group on compliance to continue deliberations in a closed session, with parties only.

In the afternoon, Shoichi Kondo, Senior Vice-Minister of Environment of Japan, urged delegates to finalize negotiations, recalling agreement by all countries at the UN General Assembly high-level event on biodiversity to adopt the ABS protocol at COP 10.

Sem Shikongo, Co-Chair of the small group on compliance, reported that the group went through "a crisis" which they overcame by agreeing not to re-open agreed text and addressing additional issues in separate paragraphs.

The AFRICAN GROUP reiterated his position with regard to temporal scope: there is a moral obligation to share benefits arising from continuing uses of material accessed before the protocol's entry into force, and the protocol should "encourage" such benefit-sharing; and there is a legal obligation to share benefits arising from new uses of such material, possibly through a multilateral mechanism, in parallel with bilateral PIC and MAT mechanisms.

In the evening, compliance small group Co-Chair Shikongo reported that the group had not found a way to overcome a renewed "crisis" that occurred in the discussion on checkpoints. He stated that there was a continued goodwill, especially among developing countries, to keep negotiating on the basis of a compromise proposal, which was opposed by a negotiating group. ICG Co-Chair Hodges proposed that the "sub-region" in question indicate why it was unable to accept the compromise proposal and what was needed to continue negotiating. He then asked the small group Co-Chairs whether they were willing to continue facilitating negotiations on compliance. Sem Shikongo (Namibia) accepted, but Alejandro Lago (Spain) declined. The AFRICAN GROUP stressed their willingness to continue negotiating as long as there is room for agreement.

Following informal consultations, Hodges announced that both Co-Chairs of the small group accepted to continue facilitating negotiations on compliance, and that the ICG Co-Chairs would convene a series of bilateral consultations on Tuesday morning on the way forward. Receiving a round of applause, Lago called on delegates not to applaud him but to provide solutions.

**PREAMBLE:** A small group, co-chaired by René Lefeber (the Netherlands) and José Luis Sutera (Argentina), decided to: restructure the preamble according to general introduction, mandate, relationships, and TK; move paragraphs regarding the Working Group's mandate to the COP decision; and consider paragraphs addressing TK and scope once the protocol's respective operative provisions have been finalized. Delegates agreed on: recognizing that public awareness and sharing of biodiversity's economic value are key incentives for conservation and sustainable use; recalling CBD Article 15 (Access to Genetic Resources); promoting equity and fairness in MAT negotiations; and recognizing interdependence with regard to genetic resources for food and agriculture, their importance for food security, the role of the ITPGR and the special nature and distinctive solutions of agriculture. Delegates also discussed reference to ongoing processes and the relationship with other agreements without reaching consensus.

**EMERGENCY SITUATIONS (ARTICLE 6):** Delegates agreed to retain reference to the importance of genetic resources for food and agriculture and their role for food security and climate change adaptation and mitigation. On sectoral approaches, the group agreed to state that parties shall "encourage, as appropriate and where applicable" sectoral approaches in implementation. After some discussion, they agreed to a GRULAC proposal to add "including provisions for access, fair and equitable benefit-sharing and compliance." Delegates also agreed to delete a reference on ABS laws not affecting biological resources that are traded and used as commodities, on the understanding that this will be addressed under scope.

**CONTACT GROUPS AND INFORMALS**

**GEO-ENGINEERING:** On the proposed moratorium, delegates eventually agreed to make reference to: CBD Article 14 (Impact Assessment and Minimizing Adverse Impacts), rather than to significant or adverse impacts on biodiversity; and to taking into account the absence of a global science-based transparent and effective control and regulatory mechanisms for geo-engineering, rather than to the establishment of such a global mechanism as a condition for the moratorium. Delegates also agreed to eliminate reference to national jurisdiction in that context.

Delegates agreed to: focus the study on gaps in existing global mechanisms for consideration by SBSTTA prior to consideration by the COP; communicate the results to relevant organizations; and take into account that such mechanisms may not be best placed under the CBD.

**BIOFUELS:** Delegates considered whether to continue deliberations on the basis of a Co-Chairs' paper produced over the weekend, with several developed and developing countries requesting to use the earlier non-paper produced by the Secretariat instead. Delegates eventually agreed to continue deliberations on the basis of the Secretariat's non-paper, introducing elements from the Co-Chairs' text, when appropriate.

On the preamble, delegates agreed to use new language from the Co-Chairs' text, with some modifications, such as reference to the potential of biofuels to contribute to mitigating climate change, and to concerns when application of biofuel technologies results in increased biomass demand.

On operational text, delegates agreed to include new language from the Co-Chairs' text, explaining that land tenure security is included among socio-economic conditions, with one developing country reiterating concerns about lack of an international definition of land tenure security. Several countries, opposed by some developed countries, also proposed including water.

Delegates then considered whether to urge governments in collaboration with ILCs to ensure respect of ILCs' sustainable agricultural practices and food security when carrying out scientific assessment of biofuels impacts "subject to national policies, legislation and customary laws, where applicable." Delegates agreed on an invitation to take bio-conservation measures of "areas of high biodiversity value and areas important to ILCs."

**REDD+:** Meeting at lunchtime, delegates considered three options for a request to the Secretariat to collaborate with CPF on REDD+. Discussions focused on the third option, requesting the Secretariat to provide advice to discussions on REDD+ so that efforts are consistent with the CBD objectives. A regional group requested specific reference to biodiversity safeguards, whereas many other countries stressed that this concept has yet to be accepted and deliberations should not prejudice discussions at a special ministerial segment on REDD+ on Tuesday. Eventually, delegates agreed to work on the basis of the third option, which remains bracketed as a whole, with the following specific references also bracketed: effective consultation with parties and participation of ILCs; developing, promoting and supporting "relevant safeguards;" and mechanisms to monitor impacts on biodiversity. Some delegates still requested retention of the first option referring to possible development of "biodiversity safeguards."

**STRATEGIC PLAN:** In the afternoon, a small group met to consider the headline targets related to ABS, Article 8(j), and resource mobilization. In the evening, the contact group reconvened but did not reach agreement on target three on

incentives, including subsidies, retaining two options: one on consistency with CBD Article 22 (Relationship with Other Conventions); and another on consistency with other relevant international obligations. Targets with regard to the percentage of PAs to be designated by 2020 and the reduction of natural habitat loss by 2020 remain pending. Regarding the latter, some countries preferred reference to "at least halving" and "where feasible bringing it close to zero," whereas a number of developing countries insisted on "bringing it close to zero." A regional group requested specific mention of forests, whereas some megadiverse countries also asked to refer to other ecosystems. Other countries proposed to remove all references to specific habitats. Delegates agreed to leave controversial targets for later consideration, and continued deliberations on other targets into the night.

**FINANCIAL ISSUES:** The contact group met in the afternoon and continued addressing a Co-Chairs' proposal on the financial mechanism, focusing on the revision of the TORs for the fourth review of its effectiveness, including the criteria and procedures for its implementation. A draft decision will be prepared for consideration by Working Group II.

**MARINE AND COASTAL BIODIVERSITY:** At lunchtime, the contact group discussed language calling for minimizing ocean fertilization and increasing knowledge and research on its consequences, with many requesting reinstating instead that no ocean fertilization takes place, in accordance with decision IX/16C on ocean fertilization.

On improving the network properties of the global system of MPAs, one developing country requested establishing ecologically representative and effectively managed MPAs "under national jurisdiction or in areas subject to international regimes competent for the adoption of such measures," while another developing country requested avoiding the word "jurisdiction." Discussions continued in the evening and into the night.

**IN THE CORRIDORS**

ABS negotiations entered into crisis mode over compliance in the early evening hours, notwithstanding the small group's repeated attempts to prevent it. The announcement by the small group Co-Chairs that they would "deliver the crisis back in the hands of the ICG," as they saw no way out of the impasse, reignited speculations over the imminent collapse of the ABS process. The main question was whether the particular sub-region that had refused to embark on a compromise proposal on checkpoints, was playing a "risky gamble" or had in fact reached the bottom line of its mandate. Delegates who believed the latter expressed serious concerns about continuing the negotiations. Some even painted the doomsday scenario of a COP 10 adopting neither an ABS protocol nor a strategic plan nor finance-related decisions, if developing countries would make good on their threat to boycott these items in case the ABS protocol is not adopted. Other observers also noticed that other agenda items, beyond the "package," such as marine biodiversity, were being held hostage by those looking for something tangible on ABS. Another participant said the ace up the sleeve could lie in holding negotiations on ABS at the ministerial level, pointing to the arrival of several top negotiators to back up developing country ministers in seizing a once-in-a-lifetime opportunity to implement the third CBD objective.

## CBD COP 10 HIGHLIGHTS TUESDAY, 26 OCTOBER 2010

Working Group I addressed draft decisions on sustainable use, forest biodiversity, dry and sub-humid lands, the GTI, incentive measures, and IAS. Working Group II considered draft decisions on emerging issues, cooperation with other conventions, IPBES, and the plan of action on cities. ABS negotiations focused on compliance, TK, and the draft COP decision. An evening plenary reviewed progress. Several contact and informal groups met during the day and into the night.

### WORKING GROUP I

Delegates heard reports from the Chairs of the contact groups on marine biodiversity and on biofuels, and of informal consultations on IAS, all requesting more time to complete their work. Robyn Bromley (Australia), Chair of the Friends of the Chair group on REDD+, proposed that the group reconvene after the ministerial panel on REDD+.

**SUSTAINABLE USE:** On market-based instruments, the EU offered compromise language encouraging the application of the polluter-pays principle and improving the chain of custody, including traceability of commodities derived from biodiversity, with NEW ZEALAND and BRAZIL also requesting reference to consistency with the three CBD objectives and other relevant international obligations. The EU proposed further compromise language to support the implementation of pilot projects on sustainable use taking into account the ecosystem approach. Delegates adopted the draft decision as amended.

**FOREST BIODIVERSITY:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.5), consenting not to single out particular types of forests. Chair Hufler proposed “parking” a paragraph on REDD+ pending the outcome of the Friends of the Chair group and the ministerial panel on REDD+. NORWAY proposed new language calling on CPF partners to assess potential mechanisms to monitor impacts on biodiversity from ecosystem-based approaches to climate change mitigation including REDD, the conservation of forest carbon stocks and sustainable management of forests and forest carbon stocks. Chair Hufler, supported by the EU and BRAZIL, proposed discussing this matter in the Friends of the Chair group on REDD+.

On a call for a meeting of the CPF Task Force on Streamlining Forest-related Reporting, NORWAY requested: investigating inadequacies in forest biodiversity monitoring; and, with the EU and the PHILIPPINES, but opposed by BRAZIL, MALAYSIA and AUSTRALIA, proposing improved definitions of forest and forest types. Following informal consultations, NORWAY offered compromise language noting the need to follow up on Decision IX/5 (Forest Biodiversity) as it relates to work on definitions, with the objective of further improving the biodiversity components of the Global Forest Resources Assessment. On a call to exchange information on measures promoting forest law enforcement and trade, BRAZIL proposed reference to contributing to the implementation of the work programme rather than to maximizing synergies and efforts to tackle deforestation. Delegates adopted the draft decision with these and other amendments.

**DRY AND SUB-HUMID LANDS:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.6). Chair Hufler proposed to replace bracketed reference to a joint work programme among the Rio Conventions with a request to the Secretariat to ensure inclusion of support of the work programme when conveying the proposal to develop joint activities to the UNFCCC and UNCCD. As delegates disagreed on text recognizing differences between criteria for the definition of drylands under UNCCD and CBD, Chair Hufler proposed, and delegates agreed, to delete it and adopt the revised delineation of dry and sub-humid lands for transmission to the UNCCD instead.

IRAN requested urging parties’ support for activities identified in national capacity self-assessments. Delegates agreed to new text calling for further cooperation between UNCCD and CBD in the management of dry and sub-humid lands. Chair Hufler proposed subjecting to availability of financial resources the development and implementation of joint actions increasing cooperation between the natural and social science communities for the integration of biodiversity and sustainable land management. ISRAEL requested deleting a footnote referencing Decisions V/23 and IX/7 that define dry and sub-humid lands and arid and semi-arid areas respectively. The draft decision was adopted with these amendments.

**GTI:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.7). On a footnote defining taxonomic impediment, delegates agreed to add reference to insufficient knowledge for identification of biodiversity and lack of taxonomic capacity. ALGERIA, CANADA, BRAZIL and others raised concerns about making taxonomic information freely available, but agreed to refer to “sharing” information, instead. On biodiversity inventories, the EU proposed “inviting,” rather than “urging,” provision of funding. Delegates also agreed to refer to inventories of fauna and flora, “including microorganisms.”

Delegates discussed at length a paragraph encouraging scientific and technical collaboration subject to the outcomes of the ABS negotiations, but could not resolve the issue, as several insisted on waiting for the ABS outcome. On supporting ILCs in capturing and preserving their taxonomic knowledge, PERU, opposed by the EU, proposed inserting reference to ILCs’ PIC. BRAZIL suggested using language emerging from the ABS negotiations on “PIC and/or approval and involvement of ILCs, in accordance with national legislation,” but delegates did not agree. Discussions will continue on Wednesday.

**INCENTIVES:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.8). On perverse incentive measures, the EU proposed actively eliminating, phasing out or reforming existing harmful incentives to minimize or avoid their negative impacts. CANADA, opposed by the EU and the DOMINICAN REPUBLIC, suggested deleting a list of sectors impacted by perverse incentives. Delegates eventually agreed to replace the list with reference to “sectors that can potentially impact biodiversity.” On sustainable consumption and production patterns, the EU, opposed by BRAZIL, proposed referencing Decision IX/26 (Promoting Business Engagement) to ensure procurement policies that are in line with the objectives of the Convention. Chair Hufler proposed addressing the issue informally, and resuming discussions on Wednesday.

**IAS:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.8), and agreed on compromise language resulting from informal consultations on establishing an AHTEG to provide scientific and technical information, advice and guidance on the possible development of standards by appropriate bodies that can be used at an international level to avoid the spread of IAS that current international standards do not cover. Discussions will continue on Wednesday.

### WORKING GROUP II

M.F. Farooqui (India), Co-Chair of the contact group on financial issues, reported on progress in addressing the financial mechanism and the resource mobilization strategy, noting agreement on: the three components on the financial mechanism; the review of guidance; assessment of the amount of funds needed for CBD implementation for the sixth replenishment of the GEF; and the TORs for the fourth review of the GEF’s effectiveness. On the resource mobilization strategy, he said indicators and targets remained outstanding and the group will continue addressing them.

Finn Katerås (Norway), Co-Chair of the contact group on the strategic plan, reported that the group continued work on: outstanding targets; a “revised option” of the 2020 mission with key elements already identified; and linkages to financial resources to achieve the objectives, targets and the plan.

**NEW AND EMERGING ISSUES:** Delegates adopted an outstanding paragraph inviting submission of information on synthetic biology and geo-engineering, while applying the precautionary approach to the field release of synthetic life, with no amendments.

**COOPERATION WITH OTHER CONVENTIONS:** Delegates addressed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.20). CITES suggested, and parties agreed, to recall the UN General Assembly high-level meeting on biodiversity, in particular the President’s Summary noting the substantial benefits to be gained from the coherent implementation of the Rio conventions, and biodiversity-related conventions. On collaboration between the Rio conventions, parties agreed to include text agreed in WG I requesting the Secretariat to convey to the UNFCCC and UNCCD proposals to develop joint activities.

CITES, supported by BRAZIL, but opposed by NORWAY and the EU, suggested to take into account the already existing strategies related to biodiversity and the independence of their governing bodies. The language remained in brackets. On determining a process to enhance coordination among the biodiversity-related conventions, the EU proposed replacing establishment of an *ad hoc* joint working group comprising parties, with a request to WGRI 4 to undertake this work. The draft decision was adopted with these and other amendments.

**IPBES:** Delegates considered a draft decision (UNEP/CBD/COP/WG.2/CRP.6). NORWAY proposed a preambular reference noting that the 65th session of UN General Assembly has been invited to consider the outcome of the third meeting on IPBES held in Busan, Republic of Korea (June 2010). Noting concerns on the status of the Busan outcome, BRAZIL stated that language should not be prescriptive. The preambular paragraph was withdrawn. Delegates further agreed to delete a preambular paragraph noting the role of UNEP in establishing IPBES. NORWAY, supported by SWITZERLAND, proposed an operative paragraph encouraging the UN General Assembly to establish IPBES in 2010. The EU considered this unrealistic and instead proposed, and delegates agreed, to note that 2010 is the IYB and encourage the UN General Assembly to establish IPBES as soon as is practicable.

Venezuela, for ALBA, opposed a reference to the IPBES being independent, expressing concerns about lack of oversight. BRAZIL, GHANA and MOROCCO pointed to past negotiations and the importance of scientific independence. Delegates agreed to a proposal by BRAZIL to generally refer to the outcome of the Busan meeting instead.

NORWAY proposed, and delegates agreed, to request the Secretariat to consider how the CBD could make effective use of IPBES in conjunction with the SBSTTA Bureau and report to SBSTTA and the COP. Delegates adopted the draft decision as amended.

**CITIES PLAN OF ACTION:** Delegates discussed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.21). SINGAPORE reported on agreement reached in a Friends of the Chair group to use non-mandatory language. The draft decision was adopted with these and other amendments.

#### **INFORMAL CONSULTATIVE GROUP ON ABS**

In the morning, ICG Co-Chair Hodges drew attention to a series of bilateral consultations. Highlighting that “willingness is there,” he stressed the need to strike a balance in order to finalize a meaningful protocol which meets countries’ and stakeholders’ needs. ICG Co-Chair Casas announced: informal consultations on compliance and the issue of utilization and derivatives; a closed group to address bracketed operative text on TK; and a small group on the draft COP decision, to undertake a first reading of the text.

The ICG reconvened in the afternoon to review progress. François Pythoud, Co-Chair of the small group on the COP decision, reported on progress achieved and outstanding items.

Janet Lowe (New Zealand), Chair of the closed group on TK, reported on progress achieved regarding bracketed text on benefit-sharing (article 4), access (article 5) and compliance (articles 12, 12 *bis* and 14) and outstanding issues regarding publicly available TK (article 9(5)). ICG Co-Chair Hodges called for continued consultations on TK-related issues.

In the evening, ICG Co-Chair Hodges reported that the Co-Chairs of the small group on compliance held a series of bilateral “confessional” meetings during which each regional group revealed its position on compliance-related issues. He said the small group Co-Chairs will present a compromise proposal on Wednesday morning, noting that the ICG will also reconsider the draft decision, to give clear guidance to the budget group on financing needs for ABS activities. Closed consultations on utilization and derivatives and on TK continued into the night.

**COP DECISION:** A small group, co-chaired by François Pythoud (Switzerland) and José Luis Sutera (Argentina), addressed the draft COP decision. Participants discussed, among others, whether the title of the document should make reference to adoption of the ABS protocol or an international ABS regime, and agreed to make a general reference to “access to genetic resources and the fair and equitable sharing of benefits arising from their utilization.” They also agreed that the decision’s first section should refer to adoption of the protocol, but not on whether the protocol will be named “Nagoya” or “Nagoya-Cali” protocol. Other outstanding items include: the relationship between the protocol and other relevant instruments in the context of the international regime; paragraphs related to issues pending in the negotiations; and budgetary issues.

#### **PLENARY**

WG I Chair Hufler reported on the finalization of six draft decisions, highlighting progress on geo-engineering and cooperation among the Rio Conventions. WG II Chair Luna reported on the adoption of 21 draft decisions, noting that three decisions on the financial mechanism were ready for revision and underscoring outstanding issues on the strategic plan, Article 8(j) and financial issues.

ICG Co-Chair Casas reported on progress on the ABS protocol’s preamble, TK and the COP decision, noting ongoing informal consultations on utilization of genetic resources and

derivatives, and on compliance. ICG Co-Chair Hodges urged parties to expand their spirit of compromise and requested further extension of the ICG’s mandate.

Budget group Chair Hunte reported that: the group was close to reach agreement on a core budget; progress was being made on voluntary contributions; some countries made pledges for core activities on ABS and Article 8(j), and additional support for protected areas; and final agreement depends on the outcome of the ABS negotiations.

#### **CONTACT GROUPS AND INFORMALS**

**STRATEGIC PLAN:** The contact group met throughout the day and into the night. In the morning, delegates reached agreement on the strategic plan implementation, monitoring, review and evaluation. On support mechanisms, developing countries proposed, and some developed countries opposed, including language regarding the resource mobilization strategy and the provision of adequate, predictable and timely new and additional resources for the strategic plan’s implementation.

Delegates addressed parties’ proposals for updating and revising the strategic plan (UNEP/CBD/COP/10/1/Add.2/Rev.1), discussing, *inter alia*, whether to: “request” or “invite” the GEF to provide support in a expeditious manner for revising eligible parties’ NBSAPs in line with the strategic plan; include references to ILCs and UNDRIP; request the Secretariat to further develop the technical rationale and suggested milestones for the targets, to be considered by SBSTTA and WGRI 4; and link the strategic plan with IPBES and the MDGs.

On the 2020 mission, one developed party proposed addressing the mission once the targets are agreed. Delegates debated options regarding: taking action towards halting biodiversity loss; taking action to halt the loss of biodiversity by 2020 provided sufficient funding is made available; and a third compromise proposal, prepared by a small group, on taking action to halt biodiversity loss in order to ensure functional and resilient ecosystems. Delegates agreed to work on the basis of the compromise proposal in a restructured form, with one party asking to include “towards halting” in brackets. A developed country regional group asked to introduce references to tipping points and to refer to healthy ecosystems. Delegates agreed to references to science, poverty alleviation, effective policy measures and mainstreaming biodiversity, while references to financial resources remain in brackets. Delegates identified contentious references, including on minimizing the negative social and economic impacts of biodiversity loss, and requested the small group to further address those issues.

Delegates agreed to targets on: integrating biodiversity values into national processes and national accounting, “as appropriate”; eliminating incentives harmful to biodiversity and developing positive ones, consistent and in harmony with the Convention and other relevant international obligations; and preventing the extinction of known threatened species and improving “their” conservation status.

Regarding the target on reducing or halving the loss of natural habitats, a developed country regional group insisted on referencing especially forests which, along with references to other habitats and baselines, remains bracketed. On a target on

creation of PAs, percentages and references to areas within and beyond national jurisdiction remain bracketed. Small groups were tasked to further consider these issues.

The target on minimizing, halting or reducing significantly erosion/loss of genetic diversity remains under consideration. Regarding the target on safeguarding ecosystems that provide ecosystem services, most delegates agreed to delete references to equitable access to ecosystem services in accordance with national legislation, as long as a specific reference to water was maintained. The targets related to ABS, resource mobilization and TK were left pending parallel discussions. Discussions continued into the night.

**BIOFUELS:** At lunchtime, delegates discussed an invitation to parties to develop inventories of areas of high biodiversity value, critical ecosystems and areas important to ILCs, debating whether to refer to: “nationally recognized” high biodiversity value areas or “national inventories;” “no-go areas,” with NGO representatives noting the importance of creating a process to also identify areas for low-intensity and small-scale biofuel production areas; and feedstock production in addition to biofuel crop production. One regional group proposed bearing in mind ecosystem services in this respect, with an NGO supporting reference also to biodiversity values.

Delegates then agreed to use Co-Chairs’ language on encouraging parties to address considerations related to biofuel production and use in developing and implementing land-use, water and other relevant policies and strategies. They debated whether to refer to direct and indirect changes to land and water use, or direct and indirect impacts on biodiversity and related socioeconomic considerations.

In the evening, delegates debated references to socioeconomic conditions, land tenure security and resource rights relevant for CBD implementation, with discussions continuing into the night.

**MARINE BIODIVERSITY:** At lunchtime, delegates started discussing a package of provisions on future steps for the identification of EBSAs, and scientific and technical aspects relevant to EIA in marine areas. A small group was tasked with reorganizing the package in a logical sequence. In the evening, delegates discussed next steps with regards to EBSAs, and possible messages to the UN General Assembly Working Group on marine biodiversity in areas beyond national jurisdiction with specific regard to establishing a process towards designation of MPAs in areas beyond national jurisdiction or to all aspects of the Working Group’s agenda items.

**ARTICLE 8(J):** A Friends of the Chair group, co-chaired by Prudence Galega (Cameroon) and Martin Wikaira (New Zealand), first discussed bracketed references under the MYPOW on Article 8(j). Regarding the theme for in-depth dialogue at Article 8(j) WG 7, most delegates preferred biodiversity and climate change, with disagreement remaining about the extent to which mitigation should be considered. A developed country regional group preferred PAs and another party benefit-sharing modalities.

Regarding the draft code of ethical conduct, one developed country asked to retain a reference to “elements of” a code of ethical conduct, and when opposed by a developing country region, asked to bracket the word “code.”

Regarding a preambular reference to “lands and waters traditionally used or occupied by ILCs,” one developing country proposed to add “in accordance with national legislation.” Noting that the original reference does not properly reflect its national land tenure system, one developed country proposed to instead refer to “their lands and waters.” Many delegates asked to retain the original wording as it is already used in the Akwé: Kon Guidelines. Two developed countries proposed referring to “their lands and waters traditionally used or occupied by ILCs.” The party objecting to traditionally occupied lands and waters said it would consider the proposal if delegates agreed to operative language stating that the code should not be interpreted as altering existing laws, treaties or other constructive arrangements. A number of developing countries proposed reference to instruments that existed before the approval of the code. Informal consultations were called for on the latter issue.

On reference to PIC and/or approval and involvement of ILCs, most delegates and ILC representatives supported PIC, whereas two developed countries preferred “approval and involvement,” as set out in Article 8(j), with one noting that it was stronger than PIC. Delegates agreed to use language from the ABS negotiations on “PIC and/or approval and involvement of ILCs”, while noting that “nothing is agreed until everything is agreed.” Discussions will continue on Wednesday.

### IN THE CORRIDORS

In the quagmire of Working Groups and contact groups and Friends of the Chair groups and small group meetings, delegates displayed varying levels of fatigue and stress as they looked for outcomes on increasingly interconnected discussions and as the COP 10 clock continues ticking. Interlinkages between discussions on marine biodiversity, Article 8(j), ABS and the resource mobilization strategy emerged in the deliberations on the strategic plan, leaving some delegates wondering when the outstanding cross-cutting items will be resolved, hopefully allowing for domino-effect progress on key issues.

Monday’s crisis seemed to have a sobering effect on ABS negotiators, who worked diligently through the draft decision, and in a closed group on TK. Many were anxious to see the result of the “confessional” meetings conducted by the Co-Chairs of the small group on compliance, due to be presented on Wednesday morning. Will they be able to present a compromise proposal? One participant said that it was clear what the compromise would have to be, but still expressed doubts: “Both sides may think that the proposal is leaning towards the other side, leading to mistrust and harsh statements.” Another blamed internal divisions for the difficulty in moving forward, citing examples where negotiators from the same groups did not back the position of their spokesperson. Three days before the end of COP 10, assessments of the likelihood for adopting an ABS protocol at COP 10 ranged from “still possible” to “unrealistic.”

Looking ahead to the ministerial segment, many wondered how to ensure that ministers focus on providing political guidance on the core issues, whereas others looked for ways to prevent them from “causing too much distraction.”

## CBD COP 10 HIGHLIGHTS WEDNESDAY, 27 OCTOBER 2010

The high-level segment convened throughout the day. Working Group I addressed draft decisions on the GTI, incentive measures, IAS, agricultural biodiversity and climate change. Working Group II considered draft decisions on the financial mechanism, SBSTTA effectiveness and the strategic plan. ABS negotiations focused on compliance, TK, and the draft COP decision. Several contact and informal groups met during the day and into the night.

### HIGH-LEVEL SEGMENT

**OPENING:** Ryu Matsumoto, Minister of the Environment of Japan, opened the high-level segment. Joseph Deiss, President of the UN General Assembly, conveyed expectations from the high-level meeting of the UN General Assembly on biodiversity for an agreement on ABS, the adoption of a strategic plan, and the timely establishment of IPBES.

In a video message, UN Secretary-General Ban Ki-moon, also urged parties to adopt an international regime on ABS and the strategic plan, and commended Japan's call for a UN Decade on Biodiversity. Ali Bongo Ondimba, President of Gabon, reported on the Pan-African Conference on Biodiversity and Poverty Alleviation, and supported the establishment of IPBES, proposing an African committee be set up to contribute to Africa's scientific and technical capacities.

Ali Mohammed Mujawwar, Prime Minister of Yemen, on behalf of G-77/China, stated the need to adopt the revised strategic plan but said that no success will be achieved without adequate financial resources. Robert Zoellick, World Bank President, pointed towards the Global Tiger Initiative as an example of successful conservation engaging a broad range of government and community stakeholders.

Achim Steiner, UNEP Executive Director, stressed that science and economics must play a key role in providing independent advice and illustrating how conventional models of growth have resulted in extraordinary impoverishment. Monique Barbut, GEF CEO and Chairperson, pointed to the 50% increase in GEF funding and initiatives for making GEF funds more accessible through a range of new partnerships. Ahmed Djoghlaif, CBD Executive Secretary, implored parties to act on behalf of future generations and reach an agreement on the ABS protocol. Naoto Kan, Prime Minister of Japan, announced the Life in Harmony Initiative, which will disperse US\$2 billion over three years, to assist developing country development and implementation of NBSAPs.

**STATEMENTS:** In the afternoon, a number of participants, including SWEDEN, NAMIBIA, and PORTUGAL, noted the opportunity for adopting a revised strategic plan and an ABS protocol, to make up for the missed 2010 target. LUXEMBOURG and AUSTRIA added that failing to reach agreement would jeopardize the credibility of the CBD, and MEXICO described COP 10 as an historic tipping point for the Convention. The UK, BRAZIL, FINLAND, THAILAND and INDONESIA said that the revised strategic plan, an ABS protocol, and resource mobilization formed mutually supportive objectives.

SWEDEN, JAPAN, the REPUBLIC OF KOREA, PORTUGAL and others singled out an agreement on ABS as a key issue, while MEXICO and others said that an effective ABS compliance regime was essential. CANADA said that an ABS protocol should be reasonable, transparent, and balance the obligations of users and providers of genetic resources. The PHILIPPINES and FINLAND suggested that a new strategic plan should be strong and ambitious, while INDONESIA and the UK said that it should be based on clear and measurable targets.

BRAZIL, the EU, MAURITANIA and others noted the importance of devising an effective strategy for resource mobilization. MALAYSIA and PALAU stressed that adequate and effective resource mobilization would be required to meet future targets. FINLAND, the UK, and the US noted their increased contributions to the GEF. JAPAN highlighted its Satoyama Initiative, for which SUDAN and TUNISIA expressed appreciation. Several countries noted the need to explore innovative financial mechanisms, including from both the public and private sectors.

The EU, SINGAPORE and SRI LANKA highlighted TEEB and the need to incorporate economics into decisions affecting biodiversity and natural resources. The REPUBLIC OF KOREA, BENIN and the US supported IPBES as a valuable tool for filling the gap between science and policy-making.

Several participants, including the EU, invoked the spirit of compromise as critical for advancing negotiations, while BRAZIL and GRENADA added that flexibility and mutual understanding were needed to avoid endless future meetings. Many stressed that biodiversity loss was not a sectoral issue, and could only be addressed alongside climate change, desertification, poverty reduction, and other issues. ANGOLA, PANAMA and others pointed towards the need to pursue synergies between the CBD and other international agreements.

**WORKING GROUP I**

Delegates heard reports from contact groups on marine biodiversity and biofuels. Chair Hufler requested both groups to continue as Friends of the Chair groups; and to reconvene the Friends of the Chair group on REDD+, requesting Japan to report on the outcomes of Tuesday's ministerial panel on REDD+.

**GTI:** PERU reiterated the need to require PIC for accessing ILCs' taxonomic knowledge. After deliberations, delegates agreed to make reference to the CBD objectives and, where applicable, PIC and/or approval and involvement of ILCs, as well as relevant national legislation. On exchange of taxonomic voucher specimens for non-commercial research, the AFRICAN GROUP reiterated that the reference remains bracketed pending adoption of the ABS protocol. PERU and GUATEMALA requested adding reference to PIC for uses other than taxonomy. Chair Hufler suggested inserting "with due regard for the need to address changes in use and intent," with the understanding that brackets will be removed once the ABS protocol is adopted. Delegates approved the draft decision as amended.

**INCENTIVES:** On perverse incentives, the EU proposed, and delegates agreed, to include a reference to sectors that potentially affect biodiversity. On sustainable consumption and production patterns, the EU requested referring to procurement policies that are in line with the CBD objectives. Delegates approved the draft decision with these amendments.

**IAS:** BELARUS suggested that the Secretariat compile and distribute existing information on IAS and related management responses, including guidelines on IAS. GUINEA proposed new text promoting transboundary cooperation on IAS management, particularly in river basin regions.

Regarding the annexed TORs for the AHTEG, NEW ZEALAND suggested replacing early warning systems with early detection and rapid response systems. The draft decision was approved as amended, with the exception of text referencing IAS used in biofuel production under consideration by the Friends of the Chair group on biofuels.

**AGRICULTURAL BIODIVERSITY:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.10). They agreed to remove brackets on references to the revised strategic plan. On collaboration with the CGRFA on analyzing impacts of intellectual property rights (IPRs), PERU, opposed by CANADA, suggested adding analysis of the use of species important for food security in other sectors. The EU, opposed by the CBD ALLIANCE and NORWAY, requested deleting reference to impacts of IPRs on small-scale farmers. Following informal consultations, delegates agreed to review trends on the extent of IPRs over genetic resources, including relevant forest and rangeland genetic resources, including, where appropriate, the impact on food security when genetic resources are patented or IPRs are acquired for other sectors such as pharmaceutical, cosmetics and other types of industries.

On a Chair's proposal regarding promoting opportunities for sustainable productivity increases through maintaining functioning of agricultural ecosystems, their biodiversity and services, the EU suggested adding "including conservation and sustainable use of genetic resources." Delegates agreed to delete language on compiling and disseminating information on the impact of trade-related incentives. Delegates also supported an IIFB request to invite parties to support "farmers" in *in situ* conservation of "local," in addition to traditional, varieties, with BRAZIL requesting consistency with the CBD and relevant international obligations. The draft decision was adopted as amended.

**CLIMATE CHANGE:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.11). Delegates agreed to: delete a call to provide climate funding for addressing climate change impacts on biodiversity; and refer to "enhancing cooperation" rather than "building synergies" between the Rio Conventions.

NORWAY and the EU requested reference to co-benefits, opposed by BOLIVIA who preferred listing specific benefits. Delegates agreed to refer to multiple benefits, including ecological, social, cultural and economic ones. BRAZIL requested deleting text on ensuring that no areas of high conservation value or species richness are used or converted for renewable energies, while AUSTRALIA and the PHILIPPINES, opposed by BOLIVIA and the DOMINICAN REPUBLIC, proposed taking note of these areas when developing and implementing renewable energy policies. Delegates agreed to consider biodiversity components for conservation and sustainable use when planning and implementing renewable energy activities.

BOLIVIA expressed concerns on the proposed definition of geo-engineering, requesting to note that the exclusion of carbon capture and storage cannot be interpreted as an acceptance of such activities, but accepted to note the concern in the meeting report.

Following a report from the Friends of the Chair group on REDD+, Chair Hufler proposed alerting the COP Presidency of continuing divergence on safeguards, for consideration during the ongoing ministerial consultations.

**WORKING GROUP II**

**FINANCIAL MECHANISM: Review of guidance to the financial mechanism:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.22). Proposed amendments to the annexed consolidated guidance were withdrawn following an explanation that the wording reflected previous COP decisions. Delegates adopted the draft decision with minor amendments to refer to the strategic plan 2011-2020 throughout.

**Assessment of funds needed for the sixth GEF replenishment:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.23). Regarding the annexed TORs for the assessment, CHINA proposed that experts be contracted from developing countries, ensuring regional balance; and, supported by the PHILIPPINES, that the assessment of funding needs take into account the strategic plan 2011-2020. The draft decision was adopted as amended.

**Preparation of the fourth review of the effectiveness of the financial mechanism:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.24). Regarding the annexed TORs, the EU, SWITZERLAND, UKRAINE and JAPAN requested that the review draw on information from "all" parties, whereas the AFRICAN GROUP requested specific reference to developing countries, including LDCs and SIDS, with the PHILIPPINES adding the "most environmentally vulnerable" countries. The RUSSIAN FEDERATION proposed, and delegates agreed, to list those countries along with countries with economies in transition and developed countries. The draft decision was adopted as amended.

**SBSTTA EFFECTIVENESS:** Delegates addressed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.25). On the implications of IPBES for SBSTTA, MEXICO proposed that IPBES be responsive to CBD needs, thereby strengthening SBSTTA, in consistency with prior decisions. On requesting SBSTTA to focus on scientific and technical aspects of the strategic plan and the MYPOW, CANADA suggested referring to SBSTTA's work under the authority of, and in accordance with, guidance from the COP and upon its request. The decision was adopted as amended.



**STRATEGIC PLAN:** Following discussions in a contact group focusing on the mission and the target related to Article 8(j), delegates discussed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.26) in the Working Group. Contact group Co-Chair Fazel reported on agreement on the decision text, with the exception of one provision on adequate financial resources for implementation, which remained in brackets pending parallel discussions. Regarding the annexed strategic plan, he noted the group had reached agreement on 12 headline targets. He reported that a small group on the mission had reached agreement on the body of the provision, but the chapeau contained options referring to actions “to halt” or “towards halting” biodiversity loss with “by 2020” also remaining in brackets.

**Draft decision:** On an operative paragraph referring to the use of NBSAPs to mainstream biodiversity, CHINA asked to remove a reference to national accounts, but following requests by the EU, PALAU and the AFRICAN GROUP to retain it, agreed to retain it with the qualification “as appropriate.” The IIFB, supported by PARAGUAY and GABON, requested inviting parties to take note of UNDRIP in implementing the strategic plan, with NEW ZEALAND adding “as appropriate and in accordance with national legislation,” to which delegates agreed.

Delegates then debated a bracketed provision inviting parties, the GEF and others to provide adequate financial support for the strategic plan implementation, and calling for effective implementation of developed countries’ financial commitments. The EU, supported by SWITZERLAND, requested to keep the provision bracketed, pending discussions on financial issues. The AFRICAN GROUP, CHINA and several developing countries asked to remove the brackets, with MEXICO and BRAZIL pointing out that the proposed wording was the same in previous COP decisions. BRAZIL proposed removing brackets and having a separate bracketed provision on the GEF. LIBERIA stated that absent agreement on financing, there was no need to discuss the strategic plan. SOUTH AFRICA and MEXICO stressed that discussions on the strategic plan should inform discussions on resource mobilization and financial resources, and not *vice versa*. The EU pointed out that the level of available resources should determine priorities for the strategic plan, and that the provision should be left pending. Noting disagreement on this critical issue, Co-Chair Luna suspended the meeting.

When discussions resumed, the EU, supported by NEW ZEALAND and others, agreed to Brazil’s proposal to remove reference to GEF and lift the brackets from the paragraph. The EU proposed, and delegates agreed to, an additional provision requesting the GEF to provide adequate, timely and predictable financial support to eligible countries to enable the strategic plan implementation.

**Strategic Plan 2011-2020:** CANADA, supported by BRAZIL, proposed specifying that the strategic plan constitutes a “flexible” framework.

**Mission:** The EU, with AUSTRALIA, the PACIFIC ISLANDS, SWITZERLAND and NORWAY, called for a strong political message supporting the option “to halt by 2020” biodiversity loss. BRAZIL, CHINA, the AFRICAN GROUP, ECUADOR, INDIA and others supported the option “towards halting” the loss of biodiversity “by 2020.” While supporting the latter, MALAYSIA and MEXICO indicated flexibility to consider “to halt” without including a deadline.

Regarding the reference to adequate financial resources in the mission, NEW ZEALAND, supported by the EU and SWITZERLAND, and opposed by BRAZIL and the AFRICAN GROUP, proposed replacing “provide” with “mobilize” financial resources.

**Headline targets:** Delegates approved the first four targets, all under the heading to address the underlying causes of biodiversity loss by mainstreaming biodiversity, with the inclusion of “as appropriate” after the reference to national accounting in the target on integrating biodiversity values into development and poverty reduction strategies.

Regarding the fifth target, BRAZIL, supported by the AFRICAN GROUP and SWITZERLAND, proposed compromise language that: by 2020 the rate of loss of all natural habitats, including forests, is at least halved and, where feasible, brought close to zero, and degradation and fragmentation is significantly reduced. The EU stressed the need to highlight forests, opposed by the PACIFIC ISLANDS, MALAYSIA, COLOMBIA and SOUTH AFRICA. Co-Chair Luna invited informal discussions on the issue.

#### INFORMAL CONSULTATIVE GROUP ON ABS

In the morning, ICG Co-Chair Hodges informed delegates that consultations on utilization and derivatives, and bilateral meetings on compliance are ongoing.

**TK:** Small group Chair Janet Lowe (New Zealand) reported agreement on: a preambular reference “noting” UNDRIP, which Canada accepted following consultations with their capital; and a preambular reference to the unique circumstances where TK associated with genetic resources, which may be oral or documented or in other forms, is held in countries. She said pending issues included: sharing of the benefits arising from the utilization of genetic resources and/or TK associated with genetic resources held by ILCs, with the communities concerned (article 4(1) *bis*), on which Canada was still consulting; different options referring to requiring ILCs’ PIC or approval and involvement for access to their genetic resources (article 5(1) *bis*); and publicly available TK (article 9(5)). The IIFB expressed concern regarding their exclusion from negotiations on TK.

In the afternoon, following further consultations, Chair Lowe reported on emerging consensus on article 5(1) *bis*, to state that, in accordance with domestic law, parties shall take measures, as appropriate, with the aim of ensuring that the PIC or approval and involvement of ILCs is obtained for access to genetic resources, where they have the established right to grant access to such resources. She noted that one group is still consulting. The IIFB stressed their concern with reference to “established” rights.

In the evening, compliance small group Co-Chair Shikongo reported on bilateral meetings with parties and regions, highlighting that there was room for compromise in parties’ instructions, but that they needed clear instructions on the search for compromise. Noting that the situation was “sobering” but there was still a “good chance” to finalize the protocol, ICG Co-Chair Hodges suggested continued consultations on compliance, publicly available TK, and utilization and derivatives; and convening a legal drafting group in the evening.

The REPUBLIC OF KOREA noted that parties have diverging interpretations on whether certain issues would fall under the ICG’s mandate. The LIKE-MINDED ASIA-PACIFIC stressed that some parties use diverging interpretations to avoid addressing biopiracy.

**ACCESS:** Consultations were held on outstanding issues, including: equal treatment in applications (article 5(2)(a) *bis*); subjecting approval of all applications to EIA (article 5(1) *ter*); and a provision on parties providing for appropriate administrative or judicial appeals procedures (article 5(2)(g)).

**COP DECISION:** At lunchtime, the small group conducted a first reading of the work plan for the protocol’s intergovernmental committee, including issues for consideration at its first and second meetings, focusing, among others, on

budgetary issues and a reference to the modalities for the establishment of an ABS ombudsperson office. Delegates then discussed outstanding items, including the meeting schedule, officials of the intergovernmental committee and requests to the Secretariat to make available guidelines and model contractual clauses to the CHM.

In the afternoon, the ICG reviewed the draft decision. The EU noted that the budget group decided that the core budget will cover one meeting of the intergovernmental committee, and the second one should be covered by voluntary contributions, requesting bracketing references to such meetings until discussions on the budget conclude.

### CONTACT GROUPS AND INFORMALS

**BIOFUELS:** The Friends of the Chair group met throughout the day. Delegates agreed on language for the decision on IAS, to be referenced in the preamble of the decision on biofuels, on applying the precautionary approach to the introduction, establishment and spread of IAS for agricultural and biomass production, including biofuel feedstock and for carbon sequestration, following the CBD guiding principles on IAS.

Delegates then discussed future action by the Secretariat, agreeing to delete reference to a “toolkit” and instead request the Secretariat to analyze and disseminate information on tools for voluntary use to assess direct and indirect impacts of biofuel production and use on biodiversity and related socioeconomic conditions. Delegates also agreed to request the Secretariat to “contribute to and assist with” the ongoing work of relevant partner organizations and processes in relation to the production and use of biofuels and biomass for energy production, with several qualifiers.

**MARINE BIODIVERSITY:** The Friends of the Chair group considered a revised Chair’s text. On text calling for minimizing the specific and cumulative detrimental impacts of human activities on marine biodiversity, delegates agreed to reference biotechnology, rather than bioprospecting. Delegates discussed at length a “funding omnibus” proposal by a developing country, dealing with the role of GEF and other funding sources. Drawing attention to a 40% increase in funding for MPAs during the GEF’s fourth replenishment, a GEF representative reported on “positive internal informal communication” on funding regional workshops on identifying EBSAs prior to SBSTTA 15.

**ARTICLE 8(J): Code of ethical conduct:** The group agreed to clarify that the code should not be interpreted as altering domestic laws, treaties or other constructive arrangements; and in turn to unbracket numerous references to “lands and waters traditionally used and occupied by ILCs.”

Regarding a provision on access to traditional resources, delegates agreed to delete a reference regarding determination of traditional resource regimes by ILCs according to their customary laws; but retain a reference to traditional resource rights being collective in nature, with the specification that they may also include “other,” instead of “individual” interests. On a provision that biodiversity-related activities ought not to cause removal of ILCs, a developed country requested to refer to removal from “their communities” or “their lands and waters,” and delegates eventually agreed to refer to “their lands and waters or lands and waters traditionally used or occupied, as applicable.” Regarding a provision on restitution and compensation, a developed country proposed subjecting it to domestic legislation, and indigenous representatives requested to add reference to international legal obligations, which was supported by a developing country regional group with the addition of “as applicable.” The revised draft code will be presented for approval by WG II.

**Article 8(j) MYPOW:** On the theme for in-depth dialogue at Article 8(j) WG 7, delegates could not agree on climate change, preferred by indigenous representatives. They eventually agreed on ecosystem management, ecosystem services and protected areas.

**FINANCIAL ISSUES: Strategy for resource mobilization:** The contact group addressed a draft proposal from a Friends of the Co-Chairs group, focusing on bracketed text. On involving key stakeholders in national implementation, delegates debated specific reference to business or the private sector, and eventually agreed to delete reference to specific stakeholders. On the strategy’s indicator on resources mobilized from the removal of incentives harmful to biodiversity, delegates qualified reference to innovative financial mechanisms by stating “that are consistent and in harmony with the Convention and other international obligations, taking into account national social and economic conditions.”

On initiatives supplementary to the financial mechanism, a developing country proposed that they should be in accordance with the CBD objectives and not imply commodification of biodiversity. Many developed countries opposed reference to commodification, and delegates agreed to refer instead to the intrinsic value of biodiversity, in accordance with the objectives of the Convention and the ABS protocol, the latter reference remaining in brackets. Discussions continued into the night.

### IN THE CORRIDORS

Linkages between the strategic plan and financial resources led to a “Mexican standoff” on Wednesday: negotiations on the strategic plan were held up by quarrels over references to financial resources, strongly opposed by those expected to provide them; whereas the decision on the resource mobilization strategy was stalled by disagreement over the role of “innovative financial mechanisms,” which some interpreted as an attempt by donors to absolve themselves from the responsibility to finance the strategic plan. Some explained that the TEEB study is changing the terms of this “old” game, with donors welcoming the opportunity to explore the role of the private sector in sponsoring biodiversity conservation. Developing countries fear that this would lead to a deterioration of already scarce public funding: “they think that opening the door to companies will solve all problems,” one delegate exclaimed sarcastically.

The standoff on financing went largely unnoticed in the ABS universe, where the atmosphere also resembled a high-noon shootout. When a number of developed country delegates did not show up for a late-night meeting on utilization, reportedly because they were not “ready” to engage on the issue, some were ready to capitulate. Others speculated, however, that delegates were using the opportunity to prepare inputs for the ministerial consultations on ABS to be held on Thursday, which, according to one, “may or may not be useful, depending on whether ministers grasp what is at stake here.” Pointing to the substantive progress that has been achieved over the last week, another delegate contemplated that “if the key issues are resolved, we can do the rest in ten minutes.” Stifling a yawn, he added “most ABS negotiators have been traveling non-stop for two years to negotiate this protocol, they want to get this done and get their lives back.” The question is whether “consensus by exhaustion” will serve the purpose of ABS and CBD implementation.

## CBD COP 10 HIGHLIGHTS THURSDAY, 28 OCTOBER 2010

The high-level segment and the Working Groups continued throughout the day. Working Group I addressed climate change, biofuels, and marine biodiversity. Working Group II considered the strategic plan, Article 8(j), and the resource mobilization strategy. ABS negotiations focused on TK, utilization and derivatives, and compliance. An informal ministerial consultation and an evening plenary also focused on ABS.

### HIGH-LEVEL SEGMENT

The morning session included a stakeholder panel discussion, followed by statements from relevant international organizations.

Pavan Sukhdev, UNEP-WCMC, delivered a report on the key findings of the TEEB study, arguing that economic accounting must “make the invisible visible” by incorporating natural capital into management decisions at all levels. Barry Gardiner, GLOBE International, indicated the GLOBE Natural Capital Action Plan was a move in that direction, and Gustavo Fonseca, GEF, agreed that natural capital accounting must make biodiversity conservation a springboard for economic development. James Griffiths, World Business Council for Sustainable Development, underlined the responsibility and opportunity for business to incorporate biodiversity into corporate operations, highlighting the Japanese Business and Biodiversity Platform as an example of the kind of partnership needed. Masaaki Kanda, Governor of Aichi Prefecture, and Takashi Kawamura, Mayor of Nagoya, described the critical role of local authorities in implementing the Convention objectives, underscoring the Aichi-Nagoya Declaration on Local Authorities and Biodiversity.

Representing Youth, Niwa Rahmad Dwitama, University of Indonesia, called for including a permanent youth representative at the CBD, and announced the creation of the Global Youth Biodiversity Organization. Silvia Ribeiro, ETC Group, argued that biodiversity loss must be addressed by restoring local people’s dignity and livelihoods rather than by market mechanisms that caused the problem in the first place. Malia Nobrega, IIFB, explained that respecting indigenous rights

and practices is critical to the success of the Convention, and that indigenous ways of life assist in shaping a holistic and sustainable future.

UNFCCC Executive Secretary Christiana Figueres highlighted that the Cancún Climate Change Conference offers an opportunity to build synergies between conservation, finance, and climate policies. UNCCD Executive Secretary Luc Gnacadja pointed towards biodiversity conservation as an effective way to break the vicious cycle between poverty, land degradation, biodiversity loss and climate change.

CITES Secretary-General John Scanlon, also on behalf of the Ramsar Convention, CMS and the World Heritage Convention, stressed the strong ties between biodiversity loss, climate change, desertification and poverty reduction; and highlighted joint implementation as a key strategy for collaboration. IUCN Director General Julia Marton-Lefèvre stressed the importance of adequate resource mobilization for the ABS protocol and strategic plan. Jan McAlpine, UNFF Director, underscored that the benefits of forests extend beyond food, timber and carbon, stressing that forest management entails resolving trade-offs between different groups. Emmanuel Ze Meka, ITTO Executive Director, drew attention to the memorandum of understanding with the CBD Secretariat. Olav Kjørven, UNDP, and Eduardo Roja-Briales, FAO, emphasized the importance of small grants and other mechanisms in assisting smallholder farmers and indigenous communities with biodiversity conservation and sustainable use measures.

The afternoon session included statements from ministers and vice-ministers. Prince Albert of Monaco called for a new beginning on biodiversity and courage to shoulder collective responsibilities by pursuing a new development path that recognizes the value of nature. Most parties stressed the imperative to agree to an effective strategic plan, a fair and equitable ABS protocol, and adequate and timely financial resources.

Many stressed the need for a legally binding ABS protocol. NORWAY, MALAWI and BRUNEI emphasized that the protocol must foremost benefit local communities and the poor. ECUADOR and ZIMBABWE asserted the importance of respecting national sovereignty, and ALGERIA, ZIMBABWE,

KENYA, SURINAME and NEPAL the need to respect and recognize TK. INDIA described benefit-sharing as the missing pillar of the Convention.

Regarding the strategic plan, DENMARK, GERMANY and KIRIBATI emphasized that its targets should be measurable; and with BOTSWANA and ECUADOR said they should be achievable and realistic. UGANDA suggested the targets address poverty and development in addition to biodiversity.

Regarding resource mobilization, ALGERIA, PAPUA NEW GUINEA, ZAMBIA and others called for timely and predictable disbursement of funds, and the DEMOCRATIC REPUBLIC OF CONGO, the REPUBLIC OF CONGO, the GAMBIA, PAKISTAN and SOLOMON ISLANDS also noted the need for technology transfer and capacity building. FRANCE and GERMANY indicated they would increase conservation funding, with FRANCE pledging 500 million Euros per year from 2014-2020.

ZIMBABWE, INDIA, ECUADOR and MALAWI endorsed further South-South cooperation, with INDIA adding that such efforts should be supported by, and not replace, North-South cooperation.

BRUNEI, the GAMBIA and others stated they were exploring new regional, international and bilateral partnerships. The DEMOCRATIC REPUBLIC OF CONGO, UGANDA, GUINEA BISSAU, ESTONIA and SURINAME emphasized the need for national strategies to engage civil society and local communities.

While ZAMBIA, GUINEA BISSAU, LAO PDR and UGANDA said they missed the 2010 target due to insufficient financial resources and technical capacity, ECUADOR pointed to structural patterns of production and consumption, and MALDIVES blamed greed and unsustainable lifestyles. Many added that the linkages between biodiversity, climate change and poverty reduction created potential synergies between the Rio Conventions. BOTSWANA, ICELAND, BELIZE, PERU, MONGOLIA and others reported progress on their NBSAPs, implementation efforts and expansion of their PAs.

BOTSWANA, MALDIVES, KENYA and others highlighted linkages between biodiversity loss and climate change, with PAKISTAN, SOLOMON ISLANDS and PAPUA NEW GUINEA affirming that REDD and REDD+ offered synergistic solutions to both. A number of countries indicated the need to adopt new scientific and economic tools to achieve the strategic plan. FRANCE, MALI, ICELAND and PAKISTAN supported the establishment of IPBES, with PAPUA NEW GUINEA and UGANDA indicating that the lack of biodiversity data made it difficult to meet the 2010 target. FRANCE, NORWAY, the GAMBIA, POLAND and PAKISTAN valued TEEB and related studies on the economics of ecosystems and biodiversity. ALGERIA, ZIMBABWE, ICELAND, KENYA and MALAWI endorsed Japan's proposal for a UN Decade of Biodiversity.

#### **WORKING GROUP I**

**IAS:** Delegates agreed on language proposed by the contact group on biofuels for the draft decision on IAS, recognizing threats to biodiversity of existing and new IAS, and urging parties to apply the precautionary approach to the introduction and spread of IAS for biomass production, with bracketed reference to agricultural production, including biofuel feedstocks and for carbon sequestration, following the CBD guiding principles on IAS.

#### **CLIMATE CHANGE: Cooperation among the Rio**

**Conventions:** Delegates discussed bracketed reference to convening a joint high-level session of the Rio Conventions in connection with the Rio+20 Summit. The EU accepted deletion, but requested specifying that the Rio Conventions' COPs will explore how to make use of preparatory work in connection with the summit, with BRAZIL specifying "together with the Rio+20 Bureau." On requesting the Secretariat to compile information on geo-engineering, delegates agreed to collecting: views of ILCs and other stakeholders; information on possible impacts of geo-engineering on biodiversity and associated social, economic and cultural considerations; and options on definitions and understanding of "climate-related geo-engineering relevant to the CBD."

**REDD+:** BRAZIL suggested, and delegates agreed, to request the Secretariat to include "biodiversity concerns" in connection with the role of REDD+ when conveying a proposal on joint activities to the UNFCCC and UNCCD, with the EU recommending that the Secretariat convey this information for UNFCCC COP 17 consideration. The EU suggested, and delegates agreed, that the Secretariat: identify, for SBSTTA consideration, possible indicators to assess the contribution of REDD+ to reaching the CBD objectives; and assess potential mechanisms to monitor impacts on biodiversity from these and other ecosystem-based approaches to mitigation, without preempting any future UNFCCC decisions.

The EU also offered compromise language requesting the Secretariat to collaborate with relevant international organizations to identify knowledge gaps regarding the links between biodiversity conservation and sustainable use and "organic carbon stock conservation and restoration." Delegates did not reach agreement on supporting development of guidance on enhancing complementarity between national forest biodiversity-related and climate change measures, with BRAZIL, NEW ZEALAND, CHINA and MEXICO, opposed by the EU and NORWAY, requesting deletion. The reference remained bracketed. Delegates adopted the draft decision, with the exception of text on REDD+ safeguards, pending informal ministerial consultations.

**BIOFUELS:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.12). Chair Hufler appealed to delegates not to open text agreed by the contact group, and proposed focusing on bracketed text.

**Related conditions:** On bracketed references to land tenure, land security and water in text recognizing biofuel impacts on related socioeconomic conditions, the DOMINICAN REPUBLIC supported the inclusion of water and land tenure. SWITZERLAND, with INDIA, favored land tenure. The AFRICAN GROUP, supported by the PHILIPPINES, proposed "land and land tenure security and resource rights." BRAZIL preferred "access to land, water and other resources." Delegates agreed to a Chair's proposal referencing "land tenure and resource rights, including water."

**National inventories of areas:** On an invitation to parties to develop national inventories to identify areas of high biodiversity value, critical ecosystems and areas important to ILCs, the PHILIPPINES accepted deletion of additional reference to "nationally recognized no-go areas," provided that delegates

agreed to inviting parties to assess and identify areas and ecosystems that could not only be used for biofuel production, but also “exempted” from it. Delegates agreed.

**Synthetic life:** GHANA proposed deleting text urging parties to apply the precautionary approach to the introduction and use of LMOs for biofuel production, as well as field release of synthetic life into the environment and to ensure that synthetic organisms for biofuel production are not released into the environment, pointing to the decision on emerging issues. The PHILIPPINES, CAMEROON, the DOMINICAN REPUBLIC and BOLIVIA requested ensuring that synthetic life, cell or genome are not released into the environment. The EU proposed inviting parties to consider the issue of synthetic biology for biofuel production and use related to the three CBD objectives when implementing this decision and Decision IX/2 (Biofuels and biodiversity). Delegates eventually agreed to: urge parties to apply the precautionary approach to the release of synthetic life, cell or genome into the environment; and acknowledge parties’ entitlement, in accordance with domestic legislation, to suspend the release of synthetic life into the environment.

**Title of the decision:** Delegates debated at length the title of the draft decision. BRAZIL and GHANA, opposed by the DOMINICAN REPUBLIC, SWITZERLAND, TANZANIA, NAMIBIA, the PHILIPPINES and EL SALVADOR, supported reference to agricultural biodiversity. Following informal consultations with Chair Hufler, delegates agreed to “biofuels and biodiversity,” mentioning in the preamble the promotion of the positive, and minimization of the negative, impacts of biofuel production and use on biodiversity.

**MARINE AND COASTAL BIODIVERSITY:** Delegates accepted clean language from the contact group on marine biodiversity *en masse*. The EU proposed, and delegates agreed, to request the Secretariat to include the interaction between oceans and climate change, and alternatives for mitigation and adaptation strategies, in the proposal to develop joint activities among the Rio Conventions. Delegates then debated the request for an expert workshop on oceans and climate change, eventually agreeing on convening it, and inviting collaboration with UNFCCC, in support of the development of inputs for the development of joint activities between the Rio Conventions. The EU proposed, and delegates agreed, to lift brackets around text concerning the establishment of national targets for the implementation of the work programme. Delegates left brackets around references to the strategic plan pending parallel negotiations.

## WORKING GROUP II

**STRATEGIC PLAN: Mission:** SWITZERLAND reported on informal consultations, and presented amendments to the draft, noting that brackets remained. Delegates debated whether parties should take action “towards halting” or “to halt” biodiversity loss by 2020. COLOMBIA and INDIA said they could accept “to halt” biodiversity loss, provided that no deadline was included. COLOMBIA, with ECUADOR, suggested adopting only the first paragraph of the proposed mission, which also refers to ensuring that ecosystems are resilient and continue to provide essential services. NEW ZEALAND proposed removing the reference to “tipping points.” BRAZIL called for all parties’ commitment to achieve an ambitious target by ensuring cooperation, capacity building, technology transfer and adequate financial resources.

The EU called for a mission with a strong political message that would facilitate the mobilization of further funding and political will.

**Implementation:** CANADA proposed, and delegates accepted, encouraging parties to establish national biodiversity targets, rather than pass national legislation or policies. Delegates also agreed to refer to “national accounting systems, as appropriate.” The PHILIPPINES requested, and delegates agreed, to make special mention of the most environmentally vulnerable countries. A reference to timely, new and additional financial resources for the strategic plan implementation remained bracketed.

**Headline targets:** Contact group Co-Chair Katerås informed delegates that a non-paper was prepared to reflect the outcome of informal discussions on outstanding targets. Delegates adopted 2020 targets on: avoiding overfishing; sustainably managing agriculture, aquaculture and forestry; bringing pollution to levels that are not detrimental to biodiversity; identifying IAS and controlling priority IAS; preventing the extinction of known threatened species; and improving knowledge, the science base and technologies relating to biodiversity.

Delegates also adopted 2015 targets on: minimizing anthropogenic pressures on coral reefs; and developing NBSAPs as a policy instrument. Regarding the target on the genetic diversity of cultivated plants and farmed animals, MEXICO proposed, and delegates agreed, to maintain such diversity and develop and implement strategies to minimize genetic erosion by 2020.

Regarding the target on TK, the IIFB proposed that, by 2020, the TK, innovations and practices of ILCs relevant for conservation and sustainable use of biodiversity and traditional and customary uses of biological resources are respected and fully integrated and reflected in CBD implementation, with the full and effective participation of ILCs. NEW ZEALAND, CANADA, the EU, NORWAY, MEXICO, MALAYSIA, JAPAN, the PHILIPPINES and ECUADOR supported the proposal. INDIA, supported by GUATEMALA and the AFRICAN GROUP, requested a reference that TK be protected through “*sui generis* and other systems,” but delegates finally agreed to reference national legislation and relevant international obligations.

Regarding the outstanding 2020 target that the loss of natural habitats is at least halved, and where feasible, brought close to zero, the only outstanding issue remaining was whether it should specifically mention forests, which GUATEMALA opposed. Regarding the target on PAs, CHINA asked to limit MPAs to waters within national jurisdiction. CANADA agreed to lift the brackets around “equitable” PA management. In the target referring to restoring ecosystems that provide essential services, specific reference to water remains bracketed.

On the target dealing with financial resources for the strategic plan implementation, BRAZIL introduced a new proposal, stating that by 2020 at the latest, the current levels of financial resources should be increased from all sources through a consolidated and agreed process, and should reach at least US\$200 billion. NORWAY also introduced a new proposal stating that by 2020, resources (financial, human and technical) be increased at least according to the goals set out in the strategy on resource mobilization. Chair Luna proposed

including both proposals as options in the text. SWITZERLAND opposed, noting that ministerial guidance provided on resource mobilization stressed the need for increased flow of resources through public funding supplemented by other channels and the need to assess the actual funds requirement. Chair Luna clarified that the ministerial guidance was not formally adopted, and was intended to inspire rather than prejudge negotiations.

Many delegates welcomed the two concrete options, with the PHILIPPINES pointing out that they might be integrated as compromise language. Many developing countries supported the proposal by Brazil, stressing the need to set out a specific amount and target. The EU, supported by CANADA, proposed alternative language calling for a substantial increase of resources from all sources for effective CBD implementation and its strategic plan through a consolidated and agreed process and against an agreed baseline. AUSTRALIA requested a prior needs analysis.

**ARTICLE 8(j): Code of ethical conduct:** Pointing to eight years of work on the issue, Chair Luna tabled the respective draft decision and the annexed code (UNEP/CBD/COP/10/WG.2/CRP.28), noting that the text contained no brackets. Delegates adopted the draft decision.

**Article 8(j) MYPOW:** Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.27). On an indicator relating to land-use change trends, the PHILIPPINES proposed to refer to “land tenure and resource rights,” reflecting agreed language in the biofuels decision. Delegates adopted the draft decision as amended.

**RESOURCE MOBILIZATION STRATEGY:** Discussions continued into the night on a draft decision (UNEP/CBD/COP/10/WG.2/CRP.29).

#### **INFORMAL CONSULTATIVE GROUP ON ABS**

In the morning, François Pythoud (Switzerland) reported on progress in the consultations on utilization and derivatives, noting that delegates still disagreed on whether to refer to utilization of genetic resources or of biological resources; and on using an agreed definition of derivatives in the context of various articles. TK small group Chair Lowe said agreement on publicly available TK was outstanding, but commended delegates for resolving other TK-related issues. Compliance small group Co-Chair Lago said they were waiting for feedback on a proposal on compliance-related issues (article 13). Anne Daniel (Canada) reported that the legal drafting group was reviewing the text for legal coherence and clarity. ICG Co-Chair Casas announced they would hold informal consultations with heads of delegations.

In the afternoon, ICG Co-Chair Casas reported that fundamental differences persisted on utilization and derivatives, with two options remaining under article 2(c), referring to research and development from: genetic material accessed under article 5; or genetic expression or metabolism of genetic resources.

In the evening, ICG Co-Chair Hodges proposed further informal consultations on utilization and derivatives. JAPAN announced its intention to hold bilateral meetings with regional representatives on Friday morning, in case no agreement is reached Thursday night, following which the Japanese COP 10 Presidency will present a clean protocol text for plenary consideration. Noting that some parties are not aligned with regional groups, AUSTRALIA and the LIKE-MINDED ASIA-

PACIFIC asked for meetings with smaller groups or individual parties. Delegates then turned to consideration of technology transfer (article 18 *bis*) and the financial mechanism (article 19), continuing into the night.

#### **PLENARY**

ICG Co-Chair Hodges reported that, despite remarkable efforts and concrete progress achieved, the ICG had not finalized its work on the ABS protocol. ICG Co-Chair Casas highlighted progress on indigenous PIC for access to genetic resources (article 5(1) *bis*), and compliance-related issues (article 13). He reported that provisions on scope, relationship with other instruments, emergency situations, the financial mechanism, publicly available TK and, most importantly, utilization and derivatives remain outstanding. Plenary then approved an extension of the ICG mandate until midnight.

#### **IN THE CORRIDORS**

ABS delegates were on an emotional rollercoaster on Thursday. First, they were alarmed by a news article reporting on plans to adopt a “framework” ABS protocol accompanied by a significant financial contribution to support ABS capacity building in developing countries. Next, a rumored “secret” meeting with selected regions and parties tasked to prepare draft ministerial guidance on ABS upset those regions that were excluded from it. Emotions subdued after an informal ministerial meeting was held and the guidance became unofficially available. The proposed deal envisaged a multilateral benefit-sharing mechanism for genetic material and TK acquired prior to the protocol’s entry into force, benefit-sharing for derivatives linked with provided genetic resources, and expeditious access to pathogens for health emergencies with accelerated benefit-sharing. Certain negotiators were heard saying, “Maybe we should accept the deal while it is on the table,” noting that the protocol provisions agreed so far could already go a long way in implementing ABS. Others, however, were worried that those elements that are currently not part of the protocol will never be included in a legally binding document at a later stage, if the protocol is approved as it is now. “Without compliance or a clear definition of utilization, I don’t know how much you can do with this,” one noted.

As the ultimate midnight deadline for completing the ABS protocol was rapidly approaching with no agreement in sight, all eyes turned to the announced last ditch effort of the Japanese COP 10 presidency to suggest a “clean” text on Friday after holding bilateral consultations with regional leaders. Many commented that this is a risky move, with others adding that the real danger was that the strategic plan and the resource mobilization strategy may be brought down in the process. Just hours away from the closing plenary, with a number of critical issues remaining unresolved, some noted that the typhoon approaching Nagoya might be more than a meteorological phenomenon.

**ENB SUMMARY AND ANALYSIS:** The *Earth Negotiations Bulletin* summary and analysis of COP 10 will be available on Monday, 1 November 2010 online at: <http://www.iisd.ca/biodiv/cop10/>

## SUMMARY OF THE TENTH CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY: 18-29 OCTOBER 2010

The tenth meeting of the Conference of the Parties (COP 10) to the Convention on Biological Diversity (CBD) was held from 18-29 October 2010, in Nagoya, Japan. Over 7,000 delegates representing parties and other governments, UN agencies, intergovernmental, non-governmental, indigenous and local community (ILC) representatives, academia and industry attended the meeting.

CBD COP 10 considered a series of strategic, substantive, administrative and budgetary issues, and adopted 47 decisions. Delegates also continued negotiations on an international ABS protocol; and considered: a new strategic plan, targets and a multi-year programme of work (MYPOW) for the Convention; issues related to cooperation with other conventions, organizations and initiatives; and substantive issues, including marine and coastal biodiversity, climate change, forest biodiversity, biofuels, and Article 8(j) (traditional knowledge).

Following intense, late-night sessions marked by numerous parallel deliberations, and down-to-the wire negotiations on ABS, the strategic plan and the Strategy for Resource Mobilization, an impressive “package” was adopted, making COP 10 one of the most successful meetings in the history of the Convention: the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, which, after seven years of negotiations, sets out rules and procedures for implementing the Convention’s third objective; the CBD Strategic Plan for the period 2011-2020, including a mission, and strategic goals and targets aiming to inspire broad-based action by parties and stakeholders; and a decision on activities and indicators for the implementation of the Strategy for Resource Mobilization adopted at COP 9. Last but not least, the meeting: adopted a decision amounting to a *de facto* moratorium on geo-engineering; took a stance on the issue of synthetic biology, urging governments to apply the precautionary approach to the field release of synthetic life into the environment and acknowledging parties’ right to suspend it; affirmed the role of CBD in reducing emissions from deforestation and forest degradation in developing countries,

and forest conservation, sustainable forest management and enhancement of forest carbon stocks (REDD+); adopted the Tkarihwaié:ri code of ethical conduct; and established clear steps to increase cooperation among the Rio Conventions leading up to the Rio+20 Summit.

### A BRIEF HISTORY OF THE CBD

The CBD was adopted on 22 May 1992, and entered into force on 29 December 1993. There are currently 193 parties to the Convention, which aims to promote the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources. The COP is the governing body of the Convention.

**COP 1:** At its first meeting (November - December 1994, Nassau, the Bahamas), the COP set the general framework for the Convention’s implementation, by establishing the Clearing House Mechanism (CHM) and the Subsidiary Body on

### IN THIS ISSUE

A Brief History of the CBD.....	1
COP 10 Report .....	3
Access and Benefit-Sharing .....	3
Strategic Issues for Evaluating Progress and Supporting Implementation.....	8
Issues for In-depth Consideration.....	17
Other Substantive Issues.....	21
Administrative and Budgetary Matters .....	24
High-Level Segment .....	25
Closing Plenary.....	25
A Brief Analysis of CBD COP 10.....	26
Upcoming Meetings .....	28
Glossary.....	29

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Scientific, Technical and Technological Advice (SBSTTA), and by designating the Global Environment Facility (GEF) as the interim financial mechanism.

**COP 2:** At its second meeting (November 1995, Jakarta, Indonesia), the COP adopted a decision on marine and coastal biodiversity (the Jakarta Mandate) and established the Open-ended *Ad Hoc* Working Group on Biosafety to elaborate a protocol on biosafety, specifically focusing on transboundary movement of living modified organisms (LMOs) that may have an adverse effect on biodiversity.

**COP 3:** At its third meeting (November 1996, Buenos Aires, Argentina), the COP adopted work programmes on agricultural and forest biodiversity, as well as a Memorandum of Understanding with the GEF, and called for an intersessional workshop on Article 8(j) and related provisions.

**COP 4:** At its fourth meeting (May 1998, Bratislava, Slovakia), the COP established a Working Group on Article 8(j) and a panel of experts on ABS, and adopted the Global Taxonomy Initiative (GTI) and a work programme on marine and coastal biodiversity, as well as decisions on: inland water, agricultural and forest biodiversity, and cooperation with other agreements.

**EXCOP:** Following six meetings of the Biosafety Working Group between 1996 and 1999, delegates at the first Extraordinary Meeting of the COP (ExCOP) (February 1999, Cartagena, Colombia) did not agree on a compromise package to finalize negotiations on a biosafety protocol, and the meeting was suspended. The resumed ExCOP (January 2000, Montreal, Canada) adopted the Cartagena Protocol on Biosafety, and established the Intergovernmental Committee for the Cartagena Protocol on Biosafety to undertake preparations for COP/MOP 1. The Protocol addresses the safe transfer, handling and use of LMOs that may have an adverse effect on biodiversity, taking into account human health, with a specific focus on transboundary movements.

**COP 5:** At its fifth meeting (May 2000, Nairobi, Kenya), the COP reviewed the work programme on agricultural biodiversity, established an ABS Working Group, and adopted work programmes on dry and sub-humid lands, and incentive measures, and decisions on Article 8(j), the ecosystem approach, sustainable use, biodiversity and tourism, invasive alien species (IAS) and the GTI.

**COP 6:** At its sixth meeting (April 2002, The Hague, the Netherlands), the COP adopted the Convention's Strategic Plan, including the target to reduce significantly the rate of biodiversity loss by 2010. The meeting also adopted: an expanded work programme on forest biodiversity; the Bonn Guidelines on ABS; guiding principles for IAS; the Global Strategy for Plant Conservation; a work programme for the GTI; and decisions on incentive measures and Article 8(j).

**COP 7:** At its seventh meeting (February 2004, Kuala Lumpur, Malaysia), the COP adopted work programmes on mountain biodiversity, protected areas (PAs), and technology transfer and cooperation, and mandated the ABS Working Group to initiate negotiations on an international regime on ABS. The COP established the *Ad Hoc* Open-ended Working Group on Review of Implementation, and adopted: a decision to review implementation of the Convention, its Strategic Plan

and progress towards achieving the 2010 target; the Akwé: Kon Guidelines for cultural, environmental and social impact assessments; the Addis Ababa Principles and Guidelines for sustainable use; and decisions on communication, education and public awareness (CEPA), incentive measures, inland waters, and marine and coastal biodiversity.

**COP 8:** At its eighth meeting (March 2006, Curitiba, Brazil), the COP adopted a work programme on island biodiversity and decisions on a range of issues including Article 8(j), CEPA, cooperation with other conventions and private sector engagement, PAs, including high seas PAs, incentive measures, biodiversity and climate change, and forest, marine and coastal, and agricultural biodiversity. COP 8 reaffirmed the COP 5 ban on the field testing of genetic use restriction technologies, and instructed the ABS Working Group to complete its work with regard to an international regime on ABS at the earliest possible time before COP 10, to be held in 2010.

**COP 9:** At its ninth meeting (May 2008, Bonn, Germany), the COP adopted a roadmap for the negotiation of the international ABS regime before the 2010 deadline for completion of negotiations, a Strategy for Resource Mobilization for the Convention, and scientific criteria and guidance for marine areas in need of protection; and established an *ad hoc* technical expert group (AHTEG) on biodiversity and climate change.

**ABS NEGOTIATIONS:** The ABS Working Group met four times between COPs 9 and 10 to negotiate the international ABS regime (April 2009, Paris, France; November 2009, Montreal, Canada; March 2010, Cali, Colombia; and July 2010, Montreal), assisted by expert, informal and regional consultations. During the first two meetings, delegates worked on consolidating a draft. In Cali, the Working Group Co-Chairs circulated a draft protocol text, but due to procedural wrangling the meeting was suspended. The resumed meeting in Montreal, using the Interregional Negotiating Group (ING) format established in Cali, worked in good spirit on the draft protocol text, reached agreement on non-controversial provisions, and made progress on certain difficult issues, including the relationship with other instruments and compliance with domestic ABS requirements. Delegates also identified key issues that required further compromises, including scope and pathogens, derivatives and the concept of utilization of genetic resources, and mechanisms to support compliance. With several sets of brackets remaining, the Working Group held an additional meeting of the ING, which convened in September 2010, in Montreal. While the meeting achieved some progress towards an improved common understanding on derivatives and the concept of utilization, key issues remained outstanding.

**ARTICLE 8(J) WG 6:** At its sixth meeting (November 2009, Montreal, Canada), the Working Group on Article 8(j) adopted a series of recommendations, including an advanced draft of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities, and transmitted detailed views on the international ABS regime to the ABS Working Group.

**SBSTTA 14:** The 14th meeting of SBSTTA (May 2010, Nairobi, Kenya) witnessed the launch of the third edition of the Global Biodiversity Outlook and adopted 18 recommendations to COP 10, including on: in-depth reviews of implementation



of work programmes on mountain, inland waters and marine and coastal biodiversity, PAs, biodiversity and climate change, and Article 10 (sustainable use); agricultural biodiversity and biofuels; dry and sub-humid lands; forest biodiversity; IAS; post-2010 outcome-oriented goals and targets; incentive measures; the GTI; and the Global Strategy for Plant Conservation.

**WGRI 3:** The third meeting of the CBD Working Group on Review of Implementation of the Convention (WGRI) (May 2010, Nairobi), adopted 12 recommendations to COP 10, including: an updated and revised strategic plan for the post-2010 period, which remained bracketed pending resolution of financial issues and negotiations on ABS; a proposed UN decade on biodiversity 2011-2020; business engagement; a proposed biodiversity technology initiative; the multi-year programme of work of the Convention for the period 2011-2020; integration of biodiversity into poverty eradication and development; and a science-policy interface on biodiversity, ecosystem services and human well being.

### COP 10 REPORT

On Monday, 18 October, Jochen Flasbarth (Germany), on behalf of the COP 9 Presidency, declared the meeting open and pointed to the failure to meet the 2010 biodiversity target, calling for finalizing the strategic plan and the international ABS regime. He then handed the COP chairmanship to Ryu Matsumoto, Environment Minister of Japan.

COP 10 President Matsumoto said this was a critical time for measures to protect biodiversity, and called for new realistic global targets and for the establishment of an international ABS regime. Masaaki Kanda, Governor of the Prefecture of Aichi, shared the expectation that COP 10 will adopt post-2010 targets and the international ABS regime. Takashi Kawamura, Mayor of the City of Nagoya, stressed the important role of municipalities and citizens in living in harmony with nature.

UNEP Executive Director Achim Steiner expressed UNEP's commitment to address shortcomings in multilateral environmental agreements (MEAs) parallel governance and administrative arrangements, and emphasized that COP 10 can become a source of inspiration for successful multilateralism.

CBD Executive Secretary Ahmed Djoghlaif termed COP 10 as the most important meeting on biodiversity in UN history, in light of the relevance of the strategic plan and the ABS protocol for sustainable development.

**REPORTS:** Delegates heard reports on: the Biosafety Protocol COP/MOP 5, including the adoption of the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress; intersessional meetings of the Working Group on Article 8(j), SBSTTA, and WGRI (UNEP/CBD/COP/10/2 to 4); the ABS negotiations; and the GEF (UNEP/CBD/COP/10/6).

**ORGANIZATIONAL MATTERS:** Delegates adopted the agenda and organization of work (UNEP/CBD/COP/10/1 and Add.1); and elected Snežana Prokić (Serbia) as Rapporteur for the meeting, and Cosima Hufler (Austria) and Damaso Luna (Mexico) as Chairs of Working Groups I and II, respectively. Plenary also established an open-ended informal consultative group (ICG) on ABS, co-chaired by Fernando Casas (Colombia) and Timothy Hodges (Canada), to negotiate and finalize both the

protocol and the COP decision; and a budget group, chaired by Amb. Conrad Hunte (Antigua and Barbuda). Delegates agreed to postpone consideration of pending financial rules on the scale of assessments to COP 11.

The following report is organized according to the meeting's agenda. Unless otherwise stated, deliberations were based on draft decisions included in the compilation circulated as a background document (UNEP/CBD/COP/10/1/Add.2/Rev.1); and COP 10 decisions were adopted during the closing plenary on Friday, 29 October, with no or minor amendments.

### ACCESS AND BENEFIT-SHARING

The ICG on ABS met throughout the meeting to continue negotiations on a draft protocol text as forwarded by the second resumed ninth meeting of the Working Group on ABS, held on 16 October in Nagoya (UNEP/CBD/COP/10/5/Add.5). Several small groups were established to address: utilization and derivatives; compliance-related issues; the protocol's relationship with other instruments; emergency situations; TK-related issues; and the COP decision. Ministerial informal consultations were held on Thursday, 28 October, and discussed a compromise proposal put forward by the Japanese COP Presidency. Informal consultations continued during the night and the following morning, when an agreement was reached on a compromise package relating to remaining outstanding issues, including: the concept of utilization and derivatives, and related benefit-sharing; the provision on scope; non-arbitrary access procedures; TK-related issues, including a provision on publicly available TK that was eventually deleted; special considerations with regard to human, animal or plant health emergencies and food security issues; the issue of temporal scope and a related proposal on a multilateral benefit-sharing mechanism to address benefit-sharing for genetic resources and TK that occur in transboundary situations or for which it is not possible to grant or obtain prior informed consent (PIC); and compliance-related provisions on checkpoints, information requirements, and the international certificate of compliance. As a result, the closing plenary adopted the Nagoya Protocol on ABS.

During the closing plenary, Venezuela stated for the record that the Protocol does not contain the necessary elements to stop biopiracy and expressed concern about turning nature into a commodity. The African Group stated for the record that although the Protocol is not the best document, they would accept it as a starting point for work towards implementation of the CBD's third objective for the benefit of the people of Africa. Bolivia wished to record disagreement, noting that the Protocol does not fully include the views of many countries and that the real priority should be to acknowledge the contribution of indigenous peoples and protect the rights of Mother Earth. The Central and Eastern European group (CEE) recorded various positions within the group on the Protocol, but expressed appreciation for the opportunity to reach consensus, noting that the CEE would not oppose its adoption. The Like-Minded Asia-Pacific highlighted that the CBD adopted two "magnificent" treaties in less than a month and, noting that the Protocol is far from perfect, urged delegates to stop biopiracy.

The following section summarizes negotiations on main issues addressed, as well as the Protocol's main provisions.

**UTILIZATION AND DERIVATIVES:** The concept of utilization and derivatives was addressed as a cross-cutting issue in informal consultations throughout the meeting, and was considered critical due to linkages to scope and benefit-sharing. Resolution was reached as part of the compromise package, to include: definitions of “utilization of genetic resources,” “biotechnology” and “derivative” in relation to biotechnology, under the use of terms (Article 2); no reference to derivatives in scope (Article 3); and reference to benefits arising from the utilization of genetic resources, as well as subsequent applications and commercialization under the provision on benefit-sharing (Article 4(1)).

**TEMPORAL SCOPE:** Issues related to scope were addressed in informal consultations. On Tuesday, 26 October, the African Group reiterated that: there is a moral obligation to share benefits arising from continuing uses of material accessed before the protocol’s entry into force, and the protocol should “encourage” such benefit-sharing; and there is a legal obligation to share benefits arising from new uses of such material, possibly through a multilateral mechanism. The compromise package included no specific mention of issues related to temporal scope or continuing or new uses. It did, however, include a provision on a global multilateral benefit-sharing mechanism, to address benefit-sharing in transboundary situations or for which it is not possible to grant or obtain PIC. Similar text is included in a preambular paragraph, while according to its work plan, the Intergovernmental Committee is required to consider, at its second meeting, the need for, and modalities of, a global multilateral benefit-sharing mechanism.

**RELATIONSHIP WITH OTHER AGREEMENTS (ARTICLE 3 BIS):** The issue was discussed in the ICG and in a small group. Debate centered on language on mutually supportive implementation, where delegates generally agreed on the need to recognize the value of ongoing work and practices under other relevant agreements, but not on how these should be referenced.

**SPECIAL CONSIDERATIONS (ARTICLE 6):** The issue was mainly discussed in a small group, co-chaired by Paulino Franco de Carvalho Neto (Brazil) and François Pythoud (Switzerland). Debate centered on the need for expeditious or simplified access procedures in the case of health emergencies and related benefit-sharing, with developed countries emphasizing the need for simplified access in such cases, and developing countries wishing to ensure sharing of benefits, particularly access to affordable treatments. Although delegates reached early agreement on the general content of the provision, including references to emergency situations with regard to human, animal and plant health, a definition of emergency situations and/or reference to relevant international agreements, simplified or expeditious access procedures, and benefit-sharing, agreement on exact language remained pending until the very end.

**TK (ARTICLE 9 AND RELATED PROVISIONS):** The cross-cutting issue of TK was addressed in the ICG, a small group co-chaired by Janet Lowe (New Zealand) and Jorge Cabrera Medaglia (Costa Rica) and in a closed group, chaired by Lowe. Debate focused on: preambular references of relevance to TK and ILCs, particularly a reference to the

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); publicly available TK; access to TK held by ILCs and cooperation in cases of alleged violation; compliance with domestic legislation on access to, and use of, TK; and sharing of benefits arising out of the utilization of TK.

A provision relating to sharing of benefits from utilization of TK that has been obtained from a source other than an ILC (publicly available TK) was debated throughout the meeting, with parties expressing opposing views as to whether such a provision was required, and whether or not to use binding or non-binding language with regard to the measures that parties should take. Divergences persisted until the end of the meeting, and the provision was eventually excluded from the adopted protocol.

**COMPLIANCE (ARTICLE 13):** Compliance-related issues were addressed throughout the meeting under the guidance of Sem Shikongo (Namibia) and Alejandro Lago (Spain), in a contact group, a closed group consisting of parties only and bilateral “confessional” meetings. Main issues of controversy included: checkpoints; disclosure requirements; and the international certificate of compliance, with developing countries supporting mandatory provisions to ensure the protocol’s implementation.

With regard to checkpoints, negotiations focused on: whether their establishment should be mandatory; whether an indicative list of checkpoints should be included; as well as what kind of information they would manage. Delegates also debated inclusion of a disclosure requirement, its mandatory nature, and consequences of non-compliance.

With regard to the international certificate of compliance, discussions focused on requirements for minimum information to be included in such a certificate and its legal relation to permits and certificates mentioned elsewhere in the protocol. Delegates also debated whether the provision aims exclusively at supporting compliance, as suggested by developing countries, or also at enhancing transparency, as promoted by developed ones; and discussed a provision regarding an international ABS ombudsperson, which was not retained in the adopted text.

**Final Decision:** The decision (UNEP/CBD/COP/10/L.43/Rev.1) includes sections on adoption of the Nagoya Protocol, its Intergovernmental Committee and administrative and budgetary matters. In the preamble, the COP recognizes that the international regime is constituted of the CBD, the ABS Protocol, as well as complementary instruments, including the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR) and the Bonn Guidelines on ABS. It adopts the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, which will be open for signature at UN Headquarters in New York from 2 February 2011 to 1 February 2012, and calls upon CBD parties to sign and ratify it. The COP agrees that human genetic resources are not included within the Protocol’s framework; and decides that the first review under Article 25 shall assess the implementation of Article 12 *bis* (Compliance with domestic legislation on TK) in light of developments in other relevant international organizations, including, *inter alia*,

the World Intellectual Property Organization (WIPO), provided that they do not run counter to the CBD and the Protocol objectives.

The COP further establishes an Open-ended *Ad Hoc* Intergovernmental Committee for the Protocol to undertake the necessary preparations for the first Meeting of the Parties and endorses its annexed work plan. It invites the GEF to provide financial support to assist with early ratification, and requests the Secretariat to collect and make available on the CHM model contractual clauses for mutually agreed terms (MAT), and relevant guidelines and codes of conduct.

The annexed work plan for the Intergovernmental Committee includes issues to be considered at its first meeting, including cooperative procedures and institutional mechanisms to promote compliance; and at its second meeting, including the need for, and modalities of, a global multilateral benefit-sharing mechanism.

**Nagoya Protocol:** The annexed Nagoya Protocol on ABS includes 27 preambular clauses, 36 operative provisions, and an annex containing an indicative list of monetary and non-monetary benefits. The preamble addresses, among others:

- the importance of legal certainty and promoting equity and fairness in negotiation of MAT;
- the need for an innovative solution to address benefit-sharing in transboundary situations, or for situations in which it is not possible to grant or obtain PIC;
- the interdependence of all countries with regard to genetic resources for food and agriculture and the fundamental role of the Commission on Genetic Resources for Food and Agriculture (CGRFA) and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR), including its Multilateral System;
- the World Health Organization (WHO) International Health Regulations and the importance of ensuring access to human pathogens for public health preparedness and response purposes;
- the interrelationship between genetic resources and TK, and their inseparable nature for ILCs, and the diversity of circumstances in which TK is held or owned by ILCs;
- the unique circumstances where TK, which may be oral, documented or in other forms, is held in countries;
- the UNDRIP; and
- that nothing in the Protocol shall be construed as diminishing or extinguishing the existing rights of ILCs.

**Article 1 (Objective):** The Protocol's objective is the fair and equitable sharing of the benefits arising from the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding, thereby contributing to biodiversity conservation and the sustainable use of its components.

**Article 2 (Use of terms):** The terms defined in CBD Article 2 apply to the Protocol. In addition, "utilization of genetic resources" means to conduct research and development on the genetic and/or biochemical composition of genetic material, including through the application of biotechnology. "Derivative" means a naturally occurring biochemical compound resulting

from the genetic expression or metabolism of biological or genetic resources, even if it does not contain functional units of heredity.

**Article 3 (Scope):** The Protocol shall apply to genetic resources within the scope of Article 15 of the Convention, to TK associated with genetic resources within the scope of the Convention, and to the benefits arising from the utilization of such resources and of such knowledge.

**Article 3 bis (Relationship with international agreements and instruments):** The article provides that:

- the Protocol shall not affect rights and obligations deriving from existing international agreements, except where the exercise of those rights and obligations would cause serious damage or threat to biodiversity;
- the paragraph is not intended to create a hierarchy between the Protocol and other international instruments;
- nothing in the Protocol shall prevent parties from developing and implementing other relevant international agreements, including other specialized ABS agreements, provided that they are supportive of, and do not run counter to, the CBD and Protocol objectives;
- the Protocol shall be implemented in a mutually supportive manner with relevant international instruments;
- due regard should be paid to useful and relevant ongoing work or practices under such international instruments and relevant international organizations, provided that they are supportive of, and do not run counter to, the CBD and Protocol objectives; and
- where a specialized international ABS instrument applies, that is consistent with, and does not run counter to, the CBD and Protocol objectives, the Protocol does not apply for the party or parties to the specialized instrument in respect to the specific genetic resource covered by, and for the purpose of, the specialized instrument.

**Article 4 (Fair and equitable benefit-sharing):** Benefits arising from the utilization of genetic resources, as well as subsequent applications and commercialization, shall be shared in a fair and equitable way upon MAT with the party providing such resources, that is the country of origin or a party that has acquired the genetic resources in accordance with the Convention. To implement the above, each party shall take legislative, administrative or policy measures, as appropriate, with the aim of ensuring that benefits arising from the utilization of genetic resources that are held by ILCs, in accordance with domestic legislation regarding the established rights of these ILCs over these genetic resources, are shared in a fair and equitable way with the communities concerned, based on MAT. Benefits may include monetary and non-monetary benefits, including but not limited to those listed in the annex. Parties shall take legislative, administrative or policy measures as appropriate, to share benefits arising from the utilization of TK associated with genetic resources in a fair and equitable way with ILCs holding such knowledge upon MAT.

**Article 5 (Access to genetic resources):** In the exercise of sovereign rights over natural resources, and subject to domestic ABS legislation or regulatory requirements, access to genetic resources for their utilization shall be subject to the PIC of the party providing such resources, that is the country of origin of

such resources or a party that has acquired the genetic resources in accordance with the Convention, unless otherwise determined by that party. In accordance with domestic law, each party shall take measures, as appropriate, with the aim of ensuring that the PIC or approval and involvement of ILCs is obtained for access to genetic resources where they have the established right to grant access to such resources.

Each party requiring PIC shall take the necessary legislative, administrative or policy measures, as appropriate, to:

- provide for legal certainty, clarity and transparency of their domestic ABS legislation or regulatory requirements;
- provide for fair and non-arbitrary rules and procedures on accessing genetic resources;
- provide information on how to apply for PIC;
- provide for a clear and transparent written decision by a competent national authority, in a cost-effective manner and within a reasonable period of time;
- provide for the issuance, at the time of access of a permit or its equivalent as evidence of the decision, to grant PIC and of the establishment of MAT, and notify the ABS CHM accordingly;
- where applicable, and subject to domestic legislation, set out criteria and/or processes for obtaining PIC or approval and involvement of ILCs for access to genetic resources; and
- establish clear rules and procedures for requiring and establishing MAT. Such terms shall be set out in writing and may include: a dispute settlement clause; terms on benefit-sharing, including in relation to intellectual property rights (IPRs); terms on subsequent third-party use, if any; and terms on changes of intent, where applicable.

**Article 5 bis (Access to TK associated with genetic resources):** In accordance with domestic law, parties take measures, as appropriate, with the aim of ensuring that TK associated with genetic resources that is held by ILCs is accessed with the PIC or approval and involvement of these ILCs, and that MAT have been established.

**Article 6 (Special considerations):** In the development and implementation of ABS legislation or regulatory requirements, parties: create conditions to promote and encourage research contributing to the conservation and sustainable use of biodiversity, particularly in developing countries, including through simplified measures on access for non-commercial research purposes, taking into account the need to address a change of intent for such research; and pay due regard to cases of present or imminent emergencies that threaten or damage human, animal or plant health, as determined nationally or internationally. Parties may take into consideration the need for expeditious access to genetic resources and expeditious fair and equitable sharing of benefits arising out of the use of such genetic resources, including access to affordable treatments by those in need, especially in developing countries; and consider the importance of genetic resources for food and agriculture and their special role for food security.

**Article 7 (Contribution to conservation and sustainable use):** Parties encourage users and providers to direct benefits arising from the utilization of genetic resources towards the conservation of biodiversity and the sustainable use of its components.

**Article 7 bis (Global multilateral benefit-sharing mechanism):** Parties consider the need for, and modalities of, a global multilateral benefit-sharing mechanism to address the fair and equitable sharing of benefits derived from the utilization of genetic resources and TK associated with genetic resources that occur in transboundary situations, or for which it is not possible to grant or obtain PIC. The benefits shared by users of genetic resources and TK associated with genetic resources through this mechanism shall be used to support the conservation of biodiversity and the sustainable use of its components globally.

**Article 8 (Transboundary cooperation):** In instances where the same genetic resources are found *in-situ* within the territory of more than one party, those parties endeavor to cooperate, as appropriate, with the involvement of ILCs concerned, where applicable, with a view to implementing the Protocol. Where the same TK associated with genetic resources is shared by one or more ILCs in several parties, those parties shall endeavor to cooperate, as appropriate, with the involvement of the ILCs concerned, with a view to implementing the Protocol's objective.

**Article 9 (TK associated with genetic resources):** In implementing their obligations under the Protocol, parties, in accordance with domestic law, take into consideration ILCs' customary laws, community protocols and procedures, as applicable, with respect to TK associated with genetic resources.

Parties, with the effective participation of the ILCs concerned, shall establish mechanisms to inform potential users of TK associated with genetic resources about their obligation (including measures) as made available through the ABS CHM for access to, and fair and equitable sharing of benefits arising from the utilization of, such knowledge.

Parties shall endeavor to support, as appropriate, the development by ILCs, including women within these communities, of: community protocols in relation to access to TK associated with genetic resources and the fair and equitable sharing of benefits arising out of the utilization of such knowledge; and minimum requirements for MAT and model contractual clauses for benefit-sharing arising from the utilization of TK associated with genetic resources.

Parties, in implementing the Protocol, shall, as far as possible, not restrict the customary use and exchange of genetic resources and associated TK within and amongst ILCs in accordance with the objectives of the Convention.

**Article 10 (National focal points (NFP) and competent national authorities):** Parties designate a NFP on ABS to make information available: for applicants seeking access to genetic resources, information on procedures for obtaining PIC and establishing MAT, including benefit-sharing; for applicants seeking access to TK associated with genetic resources, where possible, information on procedures for obtaining PIC or approval and involvement, as appropriate, of ILCs and establishing MAT including benefit-sharing; and information on competent national authorities, relevant ILCs and relevant stakeholders. The NFP shall be responsible for liaison with the Secretariat. Each party shall designate one or more competent national authorities on ABS who, in accordance with applicable national legislative, administrative or policy measures, will be responsible for granting access or, as applicable, issuing written evidence that access requirements have been met and

be responsible for advising on applicable procedures and requirements for obtaining PIC and entering into MAT. A party may designate a single entity to fulfill the functions of both focal point and competent national authority.

**Article 11 (ABS Clearing-house and information-sharing):**

The article establishes an ABS Clearing-house as part of the CHM. Among others, the article requires that, without prejudice to the protection of confidential information, parties make available to the ABS Clearing-House any information required by the Protocol, as well as information required pursuant to decisions taken by the COP/MOP, including: legislative, administrative and policy ABS measures; and permits or their equivalent issued at the time of access as evidence of the decision to grant PIC and of the establishment of MAT.

**Article 12 (Compliance with domestic legislation or regulatory requirements on ABS):** Parties take appropriate, effective and proportionate legislative, administrative or policy measures to provide that genetic resources utilized within its jurisdiction have been accessed in accordance with PIC and that MAT have been established, as required by the domestic ABS legislation or regulatory requirements of the other party. Parties shall take appropriate, effective and proportionate measures to address situations of non-compliance with measures adopted as above, and as far as possible and as appropriate, cooperate in cases of alleged violation of domestic ABS legislation or regulatory requirements.

**ARTICLE 12 bis (Compliance with domestic legislation or regulatory requirements on ABS for TK associated with genetic resources):** Parties take appropriate, effective and proportionate legislative, administrative or policy measures, as appropriate, to provide that TK associated with genetic resources utilized within their jurisdiction has been accessed in accordance with PIC or approval and involvement of ILCs and that MAT have been established, as required by domestic ABS legislation or regulatory requirements of the other party where such ILCs are located. As in the previous article, parties shall take measures to address non-compliance and cooperate in cases of alleged violation.

**Article 13 (Monitoring the utilization of genetic resources):**

To support compliance, parties take measures, as appropriate, to monitor and to enhance transparency about the utilization of genetic resources, including the designation of one or more checkpoints, as follows:

- designated checkpoints would collect or receive, as appropriate, relevant information related to PIC, to the source of the genetic resource, to the establishment of MAT, and/or to the utilization of genetic resources, as appropriate;
- each party shall, as appropriate and depending on the particular characteristics of a designated checkpoint, require users of genetic resources to provide the information specified (in the above paragraph) at a designated checkpoint;
- such information, including from internationally recognized certificates of compliance where they are available, will, without prejudice to the protection of confidential information, be provided to relevant national authorities, to the party providing PIC and to the ABS Clearing-House, as appropriate; and

- checkpoints: must be effective; should have functions relevant to implementation; and should be relevant to the utilization of genetic resources, or to the collection of relevant information at, *inter alia*, any stage of research, development, innovation, pre-commercialization or commercialization.

Other measures shall include: encouraging users and providers of genetic resources to include provisions in MAT to share information on the implementation of such terms, including through reporting requirements; and encouraging the use of cost-effective communication tools and systems.

A permit or its equivalent issued in accordance with Article 5(2)(d) and made available to the ABS Clearing-House, shall constitute an internationally recognized certificate of compliance, serving as evidence that the genetic resource that it covers has been accessed in accordance with PIC and that MAT have been established, as required by the domestic ABS legislation or regulatory requirements of the party providing PIC.

This certificate shall contain the following minimum information when it is not confidential: issuing authority; date of issuance; the provider; unique identifier of the certificate; the person or entity to whom PIC was granted; subject matter or genetic resources covered by the certificate; confirmation that MAT were established; confirmation that PIC was obtained; and commercial and/or non-commercial use.

**Article 14 (Compliance with MAT):** Parties encourage providers and users of genetic resources and/or TK associated with genetic resources to include provisions in MAT to cover, where appropriate, dispute resolution including: the jurisdiction to which they will subject any dispute resolution processes; the applicable law; and/or options for alternative dispute resolution, such as mediation or arbitration.

Each party shall ensure that an opportunity to seek recourse is available under their legal systems, consistent with applicable jurisdictional requirements, in cases of disputes arising from MAT. Each party shall take effective measures, as appropriate, regarding access to justice and the utilization of mechanisms regarding mutual recognition and enforcement of foreign judgments and arbitral awards. The effectiveness of this article shall be reviewed by the COP/MOP in accordance with Protocol Article 25.

**Article 15 (Model contractual clauses):** Parties encourage, as appropriate, the development, update and use of sectoral and cross-sectoral model contractual clauses for MAT.

**Article 16 (Codes of conduct, guidelines and best practices and/or standards):** Parties encourage, as appropriate, the development, update and use of voluntary codes of conduct, guidelines and best practices and/or standards in relation to ABS.

**Article 17 (Awareness-raising):** Parties take measures to raise awareness of the importance of genetic resources and TK associated with genetic resources, and ABS-related issues, and includes an indicative list of such measures, including establishment and maintenance of a help desk for ILCs and awareness-raising of community protocols and ILC procedures.

**Article 18 (Capacity):** Parties cooperate in the capacity building, capacity development and strengthening of human resources and institutional capacities to effectively implement the Protocol in developing country parties, in particular the least developed countries (LDCs) and small island developing states

(SIDS) among them, and parties with economies in transition, including through existing global, regional, subregional and national institutions and organizations. In this context, parties should facilitate the involvement of ILCs and relevant stakeholders, including NGOs and the private sector. As a basis for appropriate measures, developing country parties should identify their national capacity needs and priorities through national capacity self-assessments.

**Article 18 bis (Technology transfer, collaboration and cooperation):** In accordance with CBD Articles 15, 16, 18 and 19, parties collaborate and cooperate on technical and scientific research and development programmes, including biotechnological research activities, as a means to achieve the Protocol's objective. The parties undertake to promote and encourage access to technology by, and transfer of technology to, developing country parties, in order to enable the development and strengthening of a sound and viable technological and scientific base for the attainment of the CBD and Protocol objectives. Where possible and appropriate, such collaborative activities shall take place in and with a party or the parties providing genetic resources that is the country or are the countries of origin of such resources or a party or parties that have acquired the genetic resources in accordance with the Convention.

**Article 18 ter (Non-parties):** Parties encourage non-parties to adhere to the Protocol and to contribute appropriate information to the ABS Clearing-House.

**Article 19 (Financial mechanism and resources):** The Convention's financial mechanism shall be the financial mechanism for the Protocol. In providing guidance, the COP/MOP shall take into account the needs of developing country parties as well as the capacity needs and priorities of ILCs, including women within these communities.

**Article 24 (Procedures and mechanisms to promote compliance with the Protocol):** The COP/MOP, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of the Protocol and to address cases of non-compliance. These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. They shall be separate from, and without prejudice to, the dispute settlement procedures and mechanisms under CBD Article 27.

**Article 25 (Assessment and review):** The COP/MOP undertakes four years after the entry into force of the Protocol and thereafter at intervals determined by the COP/MOP an evaluation of the Protocol's effectiveness.

The remaining articles include institutional provisions and final clauses: Article 20 (Conference of the Parties serving as the Meeting of the Parties to the Protocol); Article 21 (Subsidiary bodies); Article 22 (Secretariat); Article 23 (Monitoring and reporting); Article 26 (Signature); and Article 27 (Entry into force). An annex to the protocol includes an indicative list of monetary and non-monetary benefits.

## **STRATEGIC ISSUES FOR EVALUATING PROGRESS AND SUPPORTING IMPLEMENTATION**

**PROGRESS TOWARD THE 2010 BIODIVERSITY TARGET AND GLOBAL BIODIVERSITY OUTLOOK (GBO):** The item was first discussed in WG II on Monday,

18 October. Draft decisions on GBO 3 (UNEP/CBD/COP/10/WG.2/CRP.1) and on implementation of the Convention and the Strategic Plan (UNEP/CBD/COP/10/WG.2/CRP.2 and Rev.1) were discussed on Friday, 22 October, and accepted on Monday, 25 October. Under the same agenda item, a draft decision on biodiversity and poverty eradication (UNEP/CBD/COP/10/WG.2/CRP.5) was reviewed and adopted on Monday, 25 October. In closing plenary, delegates approved the decisions removing brackets around "subject to financial resources" where they existed.

Discussions focused on financial resources, with some developed countries noting that priorities should be determined according to available resources, whereas developing countries warned that financial resource considerations should not limit necessary steps for CBD implementation. Regarding the draft decision on the GBO, Mexico, Brazil, Ecuador, India and Malaysia supported including a provision on liaising with the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES) to achieve full synergy with the CBD.

**Final Decisions:** In the decision on implementation of the Convention and the Strategic Plan (UNEP/CBD/COP/10/L.24), the COP emphasizes the need for increased support to parties to strengthen capacity to implement the CBD objectives in line with the Strategic Plan and its Strategy for Resource Mobilization, including through updating national biodiversity strategies and action plans (NBSAPs) as effective instruments to promote implementation of the strategic plan and mainstreaming biodiversity and regional and subregional cooperation. Calling for financial support, the COP invites parties to: establish mechanisms at all levels to foster full and effective participation of ILCs and all stakeholders in the full implementation of the CBD, the strategic plan and the biodiversity targets; and involve NFPs of all biodiversity-related conventions in the process of updating NBSAPs. It further requests the Secretariat to: subject to availability of funds, and in collaboration with parties and international organizations, facilitate support to countries for capacity-building initiatives, including workshops on updating NBSAPs and mainstreaming biodiversity; prepare a further in-depth analysis of the main reasons why the 2010 biodiversity target has not been met; continue to develop guidance on integrating biodiversity into relevant sectors and cross-sectoral policies, plans and programmes; and collaborate with the biodiversity-related conventions to facilitate the participation of NFPs in the updating of NBSAPs.

In the decision on integration of biodiversity into poverty eradication strategies (UNEP/CBD/COP/10/L.16), the COP welcomes increased efforts to mainstream biodiversity and the initiative of developing countries to develop a MYPOW on South-South cooperation, and invites developed country parties, governments, donors and the GEF to provide financial and technical support for mainstreaming biodiversity into poverty eradication and development processes. Noting the draft provisional framework for capacity building and mainstreaming biodiversity and ecosystem services for sustainable development and poverty eradication forwarded by WGRI 3, the COP decides to establish an expert group on biodiversity for poverty eradication with the terms of reference (ToRs) attached to the decision and requests the Secretariat to: convene a meeting of the

expert group; prepare documentation for the meeting; and, taking into account its outcomes, continue and improve related activities listed in the decision.

In the decision on GBO 3 (UNEP/CBD/COP/10/L.9), the COP notes the GBO 3 conclusions that: the 2010 biodiversity target has not been fully met; limited capacities and financial and technical resources were an obstacle in that regard; most future scenarios project continuing high levels of extinction and loss of habitats; and there are greater opportunities to address the biodiversity crisis through well-targeted policies focusing on critical areas, species and ecosystem services. It then notes that a strategy for reducing biodiversity loss requires action at multiple levels; and the need to place greater emphasis on restoration of degraded ecosystems. The COP urges parties to take urgent action to implement COP decisions and the actions identified in GBO 3 to curb the continuing loss of biodiversity; and requests the Secretariat to: collaborate with relevant organizations to enhance evaluation of the post 2010 targets drawing on the GBO-3 conclusions; commission a review of the production of GBO 3; further develop a communication strategy for GBO 3; promote dissemination of GBO 3 and hold workshops; and liaise with IPBES to achieve full synergy between the two processes.

#### REVISED STRATEGIC PLAN, BIODIVERSITY

**TARGET AND INDICATORS:** The issue was first discussed in WG II on Monday, 18 October, and then in a contact group co-chaired by Asghar Fazel (Iran) and Finn Katerås (Norway). On Monday, 25 October, WG II adopted draft decisions on the UN Decade on Biodiversity (UNEP/CBD/COP/10/WG.2/CRP.10) and on outcome-oriented goals and targets (UNEP/CBD/COP/10/WG.2/CRP.15).

Discussions regarding the revised strategic plan focused on the mission and headline targets that still contained brackets. Initially there were two options for the mission: New Zealand, Iceland and Thailand supported the first option to take action towards halting the loss of biodiversity and, by 2020, to have reduced the pressures on biodiversity and restored ecosystems and ecosystem services. The African Group supported the second option to take action to halt biodiversity loss by 2020 provided sufficient funding is made available. Norway and the CBD Alliance said the mission should be to halt biodiversity loss by 2020. The European Union (EU) said the strategic plan is an effective and flexible framework that could enhance international governance among conventions. A number of developing countries stressed the connection between the revised strategic plan and the Strategy for Resource Mobilization, and called for mobilizing sufficient financial resources for implementing the strategic plan. Delegates debated a third compromise proposal, prepared by a small group, on taking action to halt biodiversity loss to ensure functional and resilient ecosystems. Delegates agreed to reference science, poverty alleviation, effective policy measures and mainstreaming biodiversity, while references to financial resources remained in brackets. Delegates identified contentious references, including on minimizing the negative social and economic impacts of biodiversity loss.

The contact group discussed: strategic plan implementation; monitoring, review and evaluation; and the mission and headline targets. On support mechanisms, developing countries proposed, and some developed countries opposed, including language

regarding the Strategy for Resource Mobilization and the provision of adequate, predictable and timely new and additional resources for the strategic plan's implementation. Regarding the draft decision, delegates debated whether to: request or invite the GEF to provide support in an expeditious manner for revising eligible parties' NBSAPs in line with the strategic plan; include references to ILCs and UNDRIP; request the Secretariat to further develop the technical rationale and suggested milestones for the targets, to be considered by SBSTTA and WGRI 4; and link the strategic plan with IPBES and the Millennium Development Goals.

Regarding the target on the values of biodiversity to be integrated into national and local development and poverty reduction strategies and planning processes, some developed countries supported integration of biodiversity values into "national accounts." Many developing countries were cautious about such a reference and finally agreed to refer to "national accounting and/or reporting systems."

Regarding the target on incentives, all countries agreed to references to positive incentives. While developing and many developed countries favored strong reference to elimination of subsidies, some developed countries registered opposition. Finally, delegates agreed to state that by 2020, at the latest, incentives, including subsidies, harmful to biodiversity are eliminated, phased out or reformed. Regarding reference to consistency with international obligations, delegates debated two options on consistency with CBD Article 22 (Relationship with Other Conventions); and on consistency with other relevant international obligations. Delegates finally agreed to state "consistent and in harmony with the Convention and other relevant international obligations."

Regarding the target on safeguarding ecosystems that provide ecosystem services, most delegates agreed to delete references to equitable access to ecosystem services in accordance with national legislation, as long as a specific reference to water was maintained.

Starting on Wednesday, 27 October, WG II discussed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.26), considering the one remaining bracketed provision on adequate financial resources for implementation. The EU, supported by Switzerland, requested keeping the provision bracketed, pending discussions on financial issues. The African Group, China and several developing countries asked to remove the brackets, with Mexico and Brazil pointing out that the proposed wording was the same in previous COP decisions. Liberia stated that without an agreement on financing, there was no need to discuss the strategic plan. South Africa and Mexico stressed that discussions on the strategic plan should inform discussions on resource mobilization and financial resources, and not *vice versa*. The EU pointed out that the level of available resources should determine priorities for the strategic plan, and that the provision should be left pending. Delegates finally agreed to remove reference to the GEF and lift the brackets from the paragraph. The EU proposed, and delegates agreed to, an additional provision requesting the GEF to provide adequate, timely and predictable financial support to eligible countries to enable the strategic plan implementation. The International Indigenous Forum on Biodiversity (IIFB), supported by Paraguay

and Gabon, requested inviting parties to take note of UNDRIP in implementing the strategic plan, with New Zealand adding “as appropriate and in accordance with national legislation,” to which delegates agreed.

Delegates then discussed the annexed revised strategic plan. Canada, supported by Brazil, proposed specifying that the strategic plan constitutes a “flexible” framework. Regarding the mission, the EU, with Australia, the Pacific Islands, Switzerland and Norway, called for a strong political message supporting the option “to halt by 2020” biodiversity loss. Brazil, China, the African Group, Ecuador, India and others supported the option “towards halting” the loss of biodiversity by 2020. While supporting the latter, Malaysia and Mexico indicated flexibility to consider “to halt” without including a deadline.

Brazil, supported by the African Group and Switzerland, proposed compromise language that: by 2020 the rate of loss of all natural habitats, including forests, is at least halved and, where feasible, brought close to zero, and degradation and fragmentation is significantly reduced. The EU stressed the need to highlight forests, opposed by the Pacific Islands, Malaysia, Colombia and South Africa.

Regarding the target on TK, the IIFB proposed that, by 2020, the TK, innovations and practices of ILCs relevant for conservation and sustainable use of biodiversity and traditional and customary uses of biological resources are respected and fully integrated in CBD implementation, with the full and effective participation of ILCs. New Zealand, Canada, the EU, Norway, Mexico, Malaysia, Japan, the Philippines and Ecuador supported the proposal. India, supported by Guatemala and the African Group, requested a reference that TK be protected through “*sui generis* and other systems,” but delegates finally agreed to reference national legislation and relevant international obligations instead.

On the target dealing with financial resources for the strategic plan implementation, Brazil, supported by many developing countries, introduced a new proposal, stating that by 2020 at the latest, the current levels of financial resources should be increased from all sources through a consolidated and agreed process, and should reach at least US\$200 billion. Norway also introduced a new proposal stating that by 2020, resources (financial, human and technical) be increased at least according to the goals set out in the Strategy for Resource Mobilization. The EU, supported by Canada, proposed alternative language calling for a substantial increase of resources from all sources for effective implementation of the CBD and its strategic plan through a consolidated and agreed process and against an agreed baseline. Australia requested a prior funding needs analysis.

During the last session of WG II, on Friday, 29 October, and in closing plenary, the strategic plan contact group Co-Chair Katerås tabled a compromise package developed in informal consultations, which adds a reference to the resources provided through the Strategy for Resource Mobilization in the operative paragraph on development of national and regional targets. It further finalizes the chapeau of the mission to include the reference to the year 2020 and reads: “take effective action to halt the loss of biodiversity in order to ensure that by 2020 ecosystems are resilient and continue to provide essential services thereby securing the planet’s variety of life, and

contributing to human wellbeing and poverty eradication.” Regarding outstanding targets, delegates agreed to references to: forests in the target on rate of loss of natural habitats; 17% terrestrial and inland water, and 10% coastal and marine areas to be designated as PAs; and to services related to water in the target on ecosystem restoration. The targets related to ABS and mobilization of financial resources were also finalized and included in the package. Finally, delegates included a reference to the Strategy for Resource Mobilization and the process for its further development to provide adequate, predictable and timely new and additional financial resources, in support of implementing the strategic plan. Delegates accepted the compromise package. Following a request by Norway, delegates agreed to anticipate the deadline for ensuring entry into force of the Nagoya ABS protocol to 2015, rather than 2020. Delegates further agreed to refer to the targets as the Aichi Targets. The closing plenary adopted the revised strategic plan as amended.

**Final Decisions:** In the decision on outcome-oriented goals and targets (UNEP/CBD/COP/10/L.4), the COP agrees to: pursue the use of the global headline indicators in monitoring progress towards selected targets; complement them with additional indicators; and develop measures or specific indicators to complement the existing indicators taking into account indicators developed under other MEAs. The COP requests the Secretariat to convene a meeting of the *Ad Hoc* Technical Expert Group on indicators for the Strategic Plan to: provide advice on further development of indicators and on strengthening linkages between global and national indicators; and suggest additional ones and develop further guidance for establishment of mechanisms to support parties in their efforts to develop national indicators and associated biodiversity monitoring and reporting systems.

In the decision on the UN Decade on Biodiversity (UNEP/CBD/COP/10/L.20), the COP invites the UN General Assembly to consider declaring 2011-2020 the UN Decade on Biodiversity and requests the Secretariat, in cooperation with biodiversity-related conventions, to encourage full participation in such a decade in support of implementation of the Convention and the Strategic Plan 2011-2020.

In the decision on the revised Strategic Plan (UNEP/CBD/COP/10/L.44), the COP adopts the annexed revised Strategic Plan and urges governments to: implement it by, *inter alia*, developing national and regional targets, using the Strategic Plan as a flexible framework, in accordance with national priorities and capacities, taking into account both the global targets and trends of biodiversity in the country and the resources provided through the Strategy for Resource Mobilization; and review and update NBSAPs in line with the Strategic Plan and use them as effective tools for integration of biodiversity targets into the national development and poverty reduction strategies and national accounts, as appropriate, and for mainstreaming biodiversity at the national level. It further urges parties and donors to provide adequate, predictable and timely financial support to developing countries, in particular, LDCs, SIDS, and the most environmentally vulnerable countries and transition economies to enable the full implementation of the Strategic Plan; and the GEF to provide adequate timely and predictable financial support to eligible countries to enable Strategic Plan implementation. It further decides to consider at COP 11 the



need for, and possible development of, additional mechanisms to enable parties to meet their commitments under the Convention and Strategic Plan. Finally, the COP requests the Secretariat to:

- promote and facilitate activities to strengthen capacity for the Strategic Plan implementation, including through workshops on updating NBSAPs, mainstreaming of biodiversity and mobilization of resources;
- prepare a plan, to be considered by SBSTTA before COP 11, for the preparation of GBO 4, on the basis of the fifth national reports, use of headline global biodiversity indicators and other relevant information;
- building on The Economics of Ecosystems and Biodiversity (TEEB) study, further develop the economic aspects related to ecosystem services, and implementation tools for the integration of economic aspects of biodiversity and ecosystem services; and
- support countries in making use of the findings of the TEEB study and in integrating the values of biodiversity into relevant national and local policies, programmes and planning processes.

The annex contains the Strategic Plan 2011-2020 “Living in Harmony with Nature,” which comprises sections on: rationale; vision; mission, strategic goals and headline targets; implementation, monitoring, review and evaluation; and support mechanisms. The Strategic Plan’s vision is a world of “living in harmony with nature” where “by 2050, biodiversity is valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people.”

The mission sets out to: take effective and urgent action to halt biodiversity loss to ensure that by 2020 ecosystems are resilient and continue to provide essential services, thereby securing the planet’s variety of life, and contributing to human wellbeing, and poverty eradication. To ensure this, pressures on biodiversity are reduced, ecosystems are restored, biological resources are sustainably used and benefits shared in a fair and equitable manner, adequate financial resources are provided, capacities are enhanced, biodiversity issues and values mainstreamed, appropriate policies are effectively implemented, and decision-making is based on sound science and the precautionary approach.

The Strategic Plan includes 20 headline targets, organized under five strategic goals.

The following targets have a 2015 deadline, so that:

- the anthropogenic pressures on coral reefs, and other vulnerable ecosystems impacted by climate change or ocean acidification are minimized, so as to maintain their integrity and functioning;
- the Nagoya Protocol on ABS is in force and operational, consistent with national legislation; and
- each party has developed, adopted as a policy instrument, and has commenced implementing an effective, participatory and updated NBSAP.

The following headline targets have a 2020 deadline:

- people are aware of the values of biodiversity and the steps they can take to conserve and use it sustainably;
- biodiversity values have been integrated into national and local development and poverty reduction strategies and into

- national accounting, as appropriate, and reporting systems;
- incentives, including subsidies, harmful to biodiversity are eliminated, in order to minimize or avoid negative impacts, and positive incentives for the conservation and sustainable use of biodiversity are developed and applied, in harmony with the Convention and other relevant international obligations;
- governments, business and stakeholders at all levels have taken steps to achieve or have implemented plans for sustainable production and consumption and have kept the impacts of use of natural resources well within safe ecological limits;
- the rate of loss of all natural habitats, including forests, is at least halved and, where feasible, brought close to zero and degradation and fragmentation is significantly reduced;
- all fish and aquatic plants are managed and harvested sustainably, legally and applying ecosystem-based approaches, so that overfishing is avoided, recovery plans and measures are in place for all depleted species, fisheries have no significant adverse impacts on threatened species and vulnerable ecosystems and the impacts of fisheries on stocks, species and ecosystems are within safe ecological limits;
- areas under agriculture, aquaculture and forestry are managed sustainably, ensuring conservation of biodiversity;
- pollution, including from excess nutrients, has been brought to levels that are not detrimental to ecosystem function and biodiversity;
- invasive alien species (IAS) and pathways are identified and prioritized, priority species are controlled or eradicated, and measures are in place to manage pathways to prevent their introduction and establishment;
- at least 17% of terrestrial and inland water, and 10% of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected PA systems and other effective area-based conservation measures, and integrated into the wider landscape and seascapes;
- the extinction of known threatened species has been prevented and their conservation status, particularly of those most in decline, has been improved and sustained;
- the genetic diversity of cultivated plants and farmed and domesticated animals and of wild relatives, including other socio-economically as well as culturally valuable species, is maintained, and strategies have been developed and implemented for minimizing genetic erosion and safeguarding their genetic diversity;
- ecosystems that provide essential services, including services related to water, and contribute to health, livelihoods and well-being, are restored and safeguarded, taking into account the needs of women, indigenous and local communities, and the poor and vulnerable;
- ecosystem resilience and the contribution of biodiversity to carbon stocks has been enhanced, through conservation and restoration, including restoration of at least 15% of degraded ecosystems, thereby contributing to climate change mitigation and adaptation and to combating desertification;

- TK, innovations and practices of ILCs relevant for the conservation and sustainable use of biodiversity, and their customary use of biological resources, are respected, subject to national legislation and relevant international obligations, and fully integrated and reflected in the implementation of the Convention with the full and effective participation of ILCs, at all relevant levels;
- knowledge, the science base and technologies relating to biodiversity, its values, functioning, status and trends, and the consequences of its loss, are improved, widely shared and transferred, and applied; and
- the mobilization of financial resources for effectively implementing the Strategic Plan 2011-2020 from all sources, in accordance with the consolidated and agreed process in the Strategy for Resource Mobilization should increase substantially from current levels. This target will be subject to changes contingent on resource need assessments to be developed and reported by parties.

The Strategic Plan includes a reference that: the Strategy for Resource Mobilization, including the provided concrete initiatives, targets/indicators to be developed and processes for developing innovative mechanisms, provides a roadmap for achieving the effective implementation of CBD Article 20 (financial resources) in order to provide adequate, predictable and timely new and additional financial resources, in support of implementing the Strategic Plan.

**OPERATIONS AND MYPOW: MYPOW:** This item was discussed in WG II on Tuesday, 19 October, and Friday, 22 October. A draft decision (UNEP/CBD/COP/10/WG.2/CRP.4) was adopted in WG II on Monday, 25 October, with outstanding text on the periodicity of SBSTTA meetings and on a possible joint work programme among the Rio Conventions, pending parallel negotiations.

Discussions focused on the operation of the Convention and its MYPOW including: issues to be addressed at both COP 11 and 12, and the periodicity of meetings of the COP and SBSTTA. Bosnia-Herzegovina and Brazil supported that the COP meetings after 2014 take place every three years, while Mexico, Grenada, Saint Lucia and Thailand supported holding biannual meetings. Canada, Japan, Malaysia and the EU suggested that the periodicity of COP meetings beyond 2014 be reviewed at COP 11, whereas Brazil and the African Group supported review at COP 12. Delegates eventually agreed to keep it under review and decide at COP 11.

Concerning SBSTTA meeting periodicity, Grenada, Saint Lucia and Thailand supported holding two SBSTTA meetings during each intersessional period. Following the agreement on financial issues, the closing plenary agreed to hold two SBSTTA meetings. The closing plenary adopted the decision replacing reference to the preparation of a possible joint work programme with reference to the preparation of possible joint activities.

**Final Decision:** The decision (UNEP/CBD/COP/10/L.8) defines issues to be addressed at both COP 11 and 12, including the review of progress in: the implementation of the strategic plan (2011-2020), the strategy for resource mobilization and the provision of support to assist parties, especially developing

countries, in implementing the Convention and the strategic plan. It also includes the review of the status and implementation of the ABS Protocol.

On the periodicity of meetings, the COP decides that the COP meeting periodicity will be kept under review and decided at COP 11; and two SBSTTA meetings will be held during each intersessional period until COP 12.

It also provides that WGRI 4 will prepare a message for submission to the Rio+20 Summit and that at its meeting in 2020 the COP will conduct a review of the implementation of the Convention and its strategic plan.

**Fifth national reports:** The item was discussed in WG II on Tuesday, 19 October, and Friday, 22 October. A revised draft decision (UNEP/CBD/COP/10/WG.2/CRP.3/Rev.1) was adopted in WG II on Monday, 25 October. Discussions focused on the provision of funding by the financial mechanism for report preparation, alignment of the report's format and an integrated approach to reporting.

Regarding a request to parties to start the preparation of their fifth national report as soon as possible, some developing country parties pointed to difficulties in obtaining funds in a timely manner for reporting. Cuba and the African Group suggested providing the GEF with a clear mandate to make funds available for report preparation.

On the report's format, the EU supported aligning the format of the fifth and sixth reports to enable measuring of trends, and proposed that additional guidance for the fifth national report may be supplemented at COP 11. Australia and Samoa called for a harmonized and integrated approach, with New Zealand proposing to first refer to use of common formats and then to the use of narrative formats, where appropriate. Canada expressed concern about use of common formats, highlighting the need for flexibility.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.10), the COP adopts the guidelines for the fifth national report, noting that these may be supplemented by additional guidance from COP 11. It further requests: all parties to submit their fifth national report by 31 March 2014; parties expecting difficulty in meeting the deadline to initiate the preparation of the report as early as possible; and the GEF to provide adequate and timely financial support for the preparation of the fifth and future national reports, and to ensure an early and expeditious disbursement of funds. It also decides that the fifth national report should include, *inter alia*: focus on the implementation of the strategic plan, an overall assessment of the national implementation of the Convention, obstacles encountered, and successful experiences and lessons learned from implementation. Finally, it decides that the fifth national report will use a narrative format, where appropriate, combined with use of suggested tools, and that the format for the fifth and sixth national reports should be consistent to allow for long-term tracking of progress towards the 2020 targets.

The guidelines for the fifth national report address: an update on the biodiversity status; NBSAPs; and progress towards the 2020 biodiversity targets and contributions to the relevant targets of the Millennium Development Goals.

**IPBES:** The item was discussed in WG II on Tuesday, 19 October. A draft decision (UNEP/CBD/COP/10/WG.2/CRP.6) was adopted on Tuesday, 26 October.

Discussions focused on the establishment of IPBES, its characteristics and possible synergies with the CBD. Delegates agreed to encourage the UN General Assembly to establish IPBES as soon as is practicable. Norway proposed, and delegates agreed, to request the Secretariat to consider how the CBD could make effective use of IPBES in conjunction with the SBSTTA Bureau and report to SBSTTA and the COP.

**Final Decision:** In its decision (UNEP/CBD/COP/10/L.25), the COP: welcomes the outcome of the third stakeholder dialogue on an IPBES, held in Busan, Republic of Korea, and its conclusion that IPBES should be established; encourages the 65th session of the UN General Assembly to consider IPBES establishment at the earliest opportunity; emphasizes the need for it to be responsive to the needs of the Convention and strengthen SBSTTA; and requests the CBD Secretariat to consider how the Convention could make use of the platform once the IPBES arrangements are decided.

**SBSTTA effectiveness:** WG II first discussed this item on Tuesday, 19 October and approved a draft decision (UNEP/CBD/COP/10/WG.2/CRP.25) on Wednesday, 27 October. Discussions addressed synergies with other initiatives such as IPBES and provision of guidance for SBSTTA work.

The African Group and New Zealand supported requesting the Secretariat to submit a draft *modus operandi* on the relationship between SBSTTA and IPBES to COP 11. Mexico proposed, and delegates agreed, that IPBES be responsive to CBD needs, thereby strengthening SBSTTA consistent with prior decisions. Norway supported joint meetings of Rio Conventions' bodies dealing with scientific advice, whereas India expressed concerns about different mandates.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.27), the COP, noting that IPBES could be responsive to the needs of the Convention, strengthening SBSTTA, requests: SBSTTA to focus its work on the scientific and technical aspects of the Strategic Plan and the MYPOW, under the authority of and in accordance with COP guidance; and the Secretariat to prepare a guidance reference manual for SBSTTA NFPs, an updated *modus operandi* (including the procedure for new and emerging issues), and make it available through the CHM.

**Retirement of decisions:** WG II first discussed this issue on Tuesday, 19 October and adopted a draft decision (UNEP/CBD/COP/10/WG.2/CRP.8) on Monday, 25 October.

Brazil proposed reference to paragraph 16 of Decision IX/29 (Operations of the Convention) on requesting the Secretariat to maintain the full text of all decisions on the CBD website while indicating elements that have been retired.

**Final Decision:** In its decision (UNEP/CBD/COP/10/L.37), the COP decides to retire the decisions and elements of decisions adopted at its fifth and sixth meetings listed in the annex, and requests the Secretariat to continue the practice of maintaining the full text of all decisions on the Secretariat website, while indicating those decisions and elements of decisions that have been retired.

**New and emerging issues:** WG II first discussed this issue on Tuesday, 19 October, and adopted a draft decision (UNEP/

CBD/COP/10/WG.2/CRP.7) on Monday, 25 October, except for a paragraph inviting parties to submit information on synthetic biology and geo-engineering for SBSTTA consideration, pending parallel discussions, which was adopted on Tuesday, 26 October.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.26), the COP decides not to add any new and emerging issues. The COP recognizes that ocean acidification, Arctic biodiversity, ocean noise, and ground-level ozone meet the criteria for consideration as new and emerging issues and requests SBSTTA to, *inter alia*: consider the impacts of ocean acidification on marine biodiversity and habitats under the marine and coastal biodiversity work programme; invites parties and organizations to submit information on synthetic biology and geo-engineering, while applying the precautionary approach to the field release of synthetic life, cell or genome into the environment.

**STRATEGY FOR RESOURCE MOBILIZATION:** WG II first addressed this issue on Tuesday, 19 October. The issue was then discussed in the contact group on financial issues, from 20-28 October, co-chaired by M.F. Farooqui (India) and Robert Lamb (Switzerland), and in a Friends of the Chair group facilitated by Kevin Love (Australia) that met to tackle issues on indicators and targets for the Strategy for Resource Mobilization. The proposal was then presented in the contact group. On 28 October, WG II considered two draft decisions: on the strategy activities, indicators and targets (UNEP/CBD/COP/10/WG.2/CRP.29), and on policy options for innovative financial mechanisms (UNEP/CBD/COP/10/WG.2/CRP.30), but did not reach agreement. In the closing plenary, the decision on the strategy activities, indicators and targets was addressed and text on outstanding issues agreed. The draft decision on concrete activities was approved by the plenary. The closing plenary agreed not to adopt the decision on innovative financial mechanisms (UNEP/CBD/COP/10/L.46).

Discussions focused on the development of targets and indicators for the Strategy for Resource Mobilization and on policy options to address the innovative financial mechanisms as a tool to support ecosystem services and additional funding for the Convention's implementation.

**Targets under the strategy:** Many developing countries supported a Strategy for Resource Mobilization with a monitoring mechanism, with Brazil emphasizing the need for quantitative targets and indicators. The EU said that a balance between the ambition of the strategic plan, adequate capacity and commitment by all parties should be ensured and, with many developed countries, highlighted the need for assessments and baselines to provide accurate information on funding needs. Noting the difficulties on agreeing on targets, the EU made a proposal on a roadmap for adopting targets, and adjustments were made in informal consultations. The provision on targets had two options: that "the targets would be adopted at COP 11," and that "the COP decided to define targets, for consideration at COP 11." During the closing plenary, parties agreed to the first option.

**Indicators and other issues:** During the closing plenary, Bolivia requested introducing reference to "relevant organizations and initiatives such as the World Peoples' Conference on Climate Change and Mother Earth Rights to submit their views on innovative financial mechanisms with

potential to generate new and additional financial resources, as well as social and economic problems.” Delegates eventually agreed to include it. Outstanding text referring to the ABS protocol and the intrinsic value of nature was also agreed.

**Innovative financial mechanisms:** Many developing countries were cautious about innovative financial mechanisms, requesting that they should be supplementary to the CBD’s financial mechanism and opposed reference to the Green Development Mechanism. Bolivia underscored the need for public funds in developed countries and cautioned against commodification of nature. Bolivia with Ecuador, and other developing countries proposed amendments throughout the text, including references to: ensure the rights of nature, the full respect of human rights, “net benefit for biodiversity,” not permitting that improvements in one country compensate for worsening situations in others, and cautions against commodification of biodiversity. Many developed countries opposed reference to commodification, and delegates agreed to refer instead to the intrinsic value of biodiversity. Bolivia also requested deletion of reference to TEEB, opposed by many developed countries. In the closing plenary, delegates agreed to withdraw the draft decision.

**Final Decision:** The decision (UNEP/CBD/COP/10/L.45) contains two sections on: concrete activities and initiatives including measurable targets and/or indicators and review of implementation of the Convention’s strategy for resource mobilization (goals 1, 3 and 4, as well as goals 6 and 8).

The COP, *inter alia*: emphasizes that any new and innovative funding mechanisms are supplementary and do not replace the CBD’s financial mechanisms; reiterates that national implementation of the strategy should include the design of a country-specific Strategy for Resource Mobilization, with the involvement of key stakeholders; and requests the GEF to provide timely and adequate financial support to update NBSAPs, which may include the development of country-specific resource mobilization strategies.

The COP adopts indicators for monitoring the implementation of the Strategy for Resource Mobilization, based on the Strategy’s mission and eight goals, *inter alia*: aggregated financial flows from categories including official development assistance, domestic budgets, private sector and NGOs; countries that have assessed values of biodiversity, identified funding needs, and national financial plans for biodiversity; funding provided through the GEF; number of international financing institutions; and funds and programmes that report to the OECD Development Assistance Committee.

Committed to substantially increasing resources (financial, human and technical) from all sources, including innovative financial mechanisms, balanced with the effective implementation of the CBD and its Strategic Plan, against an established baseline, the COP, *inter alia*:

- invites governments and initiatives such as the World People’s Conference on Climate Change and Mother Earth Rights to submit their views and information concerning innovative financial mechanisms with potential to generate new and additional financial resources, as well as social and economic problems related to those mechanisms that could undermine achievement of the three CBD objectives;

- decides to adopt targets at COP 11, provided that baselines have been identified and that an effective reporting framework has been adopted;
- considers for the development of targets, among others: increase in the annual international financial flows by 2020 to partner countries and that all parties, provided with adequate financial resources, will have, by 2015: reported funding needs, gaps and priorities and assessed and/or evaluated the intrinsic value, ecological, genetic, social, economic, and other values of biodiversity and its components; and
- invites donor parties to provide timely and adequate financial support to the realization of the concrete activities and initiatives to achieve the strategic goals of the Strategy for Resource Mobilization.

**SCIENTIFIC AND TECHNICAL COOPERATION AND THE CHM:** WG II first discussed this issue on Wednesday, 20 October, and adopted a draft (UNEP/CBD/COP/10/WG.2/CRP.14) on Monday, 25 October.

Brazil stressed quality information to facilitate the implementation of NBSAPs. Brazil, India, the Philippines and Malaysia highlighted the need for further financial support to implement and maintain national CHMs. The EU called on parties to increase national implementation efforts.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.5), the COP adopts the mission, goals and objectives of the CHM for the period 2011-2020, which are annexed to the decision; and requests the Secretariat and GEF to cooperate to facilitate access to funding for the CHM as a key component to support implementation of the strategic plan, as well as implementation of NBSAPs.

**TECHNOLOGY TRANSFER AND COOPERATION:** This was first discussed in WG II on Wednesday, 20 October, and a draft decision (UNEP/CBD/COP/10/WG.2/CRP.9) was adopted on Monday, 25 October. On the biodiversity technology initiative (BTI), the EU said that institutions already working on technology transfer, rather than the CBD Secretariat, should host the proposed BTI, and that details of governance for the BTI had to be further elaborated. The African Group preferred the Secretariat hosting the BTI and, supported by Colombia, India, the Philippines, Singapore, Haiti and Jordan, but opposed by Switzerland and Japan, stressed that the BTI should be binding. Brazil maintained that a binding BTI under the CBD was necessary to correct the imbalance regarding access to information and technology. Canada called for further elaboration of its ToRs for consideration at a later stage.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.3), the COP emphasizes that the future BTI needs to: provide support for the implementation of the CBD and technology transfer work programme; be demand-driven, well-defined and based on technology needs; and be adequately funded and contribute to leveraging new and additional funding. The COP also requests the Secretariat to identify gaps in ongoing activities that support, facilitate and promote technology transfer of relevance to the CBD; and to analyze the technology needs assessments for COP 11 consideration.

**GLOBAL STRATEGY FOR PLANT CONSERVATION (GSPC):** The item was first discussed in WG II on Thursday, 21

October. A draft decision (UNEP/CBD/COP/10/WG.2/CRP.18) was discussed on Monday, 25 October.

Many delegates supported the updated GSPC and targets, with the Philippines adding that they should correspond to the targets in the revised strategic plan. The EU stressed the need to include protection of plant diversity into national policies. Mexico and New Zealand welcomed the GSPC as a flexible framework to be adapted to national and local priorities. The Philippines and Singapore drew attention to fungi, with Benin adding pollinators. Canada requested further work on the technical rationale for the GSPC. Guatemala called for integration of indigenous knowledge and more holistic approaches. On the GSPC's objectives, the EU suggested making only a general reference to the three CBD objectives, opposed by Brazil, Malaysia and others, who preferred reference to the conservation and sustainable use of plant diversity, and to fair and equitable sharing of the benefits arising from the utilization of plant genetic resources.

In the closing plenary, the Secretariat announced the deletion of the provision requesting the Secretariat to seek the resources necessary for the establishment of a Secretariat position to strengthen the coordination and support towards the implementation of the GSPC beyond 2010. Delegates adopted the decision as amended.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.19), the COP: adopts the annexed consolidated update of the GSPC including the outcome-oriented global targets for 2011-2020, emphasizing that they should be viewed as a flexible framework within which national and/or regional targets may be developed, according to national priorities; and agrees to conduct a mid-term review of GSPC implementation and its targets in 2015. It invites parties and other governments to update national and regional targets, as appropriate; and along with the financial mechanism and other funders to provide adequate, timely and sustainable support for GSPC implementation. The annexed updated GSPC contains sections on: vision, mission statement, objectives, rationale, general principles, the targets 2011-2020, and implementation.

**COMMUNICATION, EDUCATION AND PUBLIC AWARENESS (CEPA) AND THE INTERNATIONAL YEAR OF BIODIVERSITY (IYB):**

This was first discussed in WG II on Wednesday, 20 October, and a draft decision (UNEP/CBD/COP/10/WG.2/CRP.12) was adopted on Monday, 25 October. Many countries supported proposing an international decade on biodiversity. The EU suggested establishing a baseline on awareness and called for promoting synergies to raise financial resources. Canada urged use of indicators for measuring achievements of CEPA. The IIFB called for involvement of indigenous peoples and inclusion of references to indigenous rights throughout the draft decision. Peru recommended that the Secretariat conduct an assessment of the impact of all IYB activities.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.32), the COP invites parties to: further improve CEPA activities with the full and effective participation of all stakeholders, including ILCs; use indicators and guidelines for survey methodologies to participate in national, regional and subregional assessment of the state of public awareness on biodiversity; and report to the

Secretariat before COP 11 with the goal of setting priorities for the work programme. The COP also invites the Secretariat to assess the results of the IYB.

**COOPERATION: Cooperation with other Conventions:**

This was first discussed in WG II on Wednesday 20 October, and a draft decision (UNEP/CBD/COP/10/WG.2/CRP.20) was adopted on Tuesday, 26 October. The EU proposed: revising the mandate of the Liaison Group of Biodiversity-related Conventions; and requesting WGRI 4 to determine a process to enhance coordination among the biodiversity-related conventions. CITES, supported by Brazil, but opposed by Norway and the EU, suggested taking into account existing strategies related to biodiversity and the independence of their governing bodies when considering the strategic plan a useful framework that is relevant to all biodiversity-related conventions. The reference remained in brackets and was eventually deleted during the closing plenary.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.28), the COP, *inter alia*:

- requests the Secretariat to prepare in consultation with the executives of the biodiversity-related conventions, proposals to strengthen the effectiveness of the Liaison Group of Biodiversity-related Conventions, its relevance to parties' needs and its linkages with the Joint Liaison Group of the Rio Conventions;
- requests WGRI 4 to determine the form and content of a process to enhance coordination, coherence and national-level strategies among the biodiversity-related conventions; and
- welcomes the agreement among the biodiversity-related conventions to consider the Strategic Plan a useful framework for all of them.

**Promoting business engagement:** This was first discussed in WG II on Wednesday, 20 October, and a draft decision (UNEP/CBD/COP/10/WG.2/CRP.20) was adopted on Monday, 25 October. Canada encouraged reporting on biodiversity conservation by the private sector; and the EU exploring innovative financial mechanisms such as payments for ecosystem services and partnerships to support the strategic plan implementation.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.18), the COP, *inter alia*:

- invites parties to promote a public policy enabling environment for private sector engagement and biodiversity mainstreaming into corporate strategies; and
- encourages the private sector to monitor and assess impacts on biodiversity and ecosystem services, develop processes and production methods that minimize or avoid negative impacts, take into account the Akwé: Kon Guidelines, and publicly report on biodiversity conservation and sustainable use.

**Cities and local authorities:** This was discussed in WG II on Wednesday, 20 October and in a Friends of the Chair group. A draft decision (UNEP/CBD/COP/10/WG.2/CRP.21) was adopted on Tuesday, 26 October by WG II. Brazil recommended recognizing the role of subnational governments and local authorities. The EU proposed reviewing the draft plan at WGRI 4. The Asia-Pacific Group stressed the role of cities in implementing and financing core CBD activities.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.23), the COP endorses the plan of action on subnational governments, cities and other local authorities for biodiversity (2011-2020), contained in an annex and including a mission, objectives, indicative list of activities, a partnership and coordination mechanism, monitoring and reporting, and funding. The COP also requests the Secretariat to prepare an assessment of links and opportunities between urbanization and biodiversity for COP 11.

**South-South cooperation:** This was first discussed in WG II on Wednesday, 20 October, and a draft decision (UNEP/CBD/COP/10/WG.2/CRP.19) was adopted on Monday, 25 October. The EU suggested reviewing the proposed South-South cooperation multi-year plan of action at WGRI 4, whereas China called for its adoption at COP 10. Brazil urged richer countries not to block South-South cooperation. The Republic of Korea offered to host an expert meeting in 2011 to discuss a roadmap towards the possible adoption of the plan at COP 11.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.40), the COP:

- welcomes the plan of action for South-South cooperation on biodiversity for development, adopted by the Group of 77 and China;
- requests WGRI 4 to further develop the plan for COP 11 consideration; and
- welcomes the Republic of Korea's offer to host an expert meeting in 2011 on the roadmap towards the possible adoption of the plan at COP 11.

**Gender mainstreaming:** This was first discussed in WG II on Wednesday, 20 October and Thursday, 21 October, and a draft decision (UNEP/CBD/COP/10/WG.2/CRP.11) was adopted on Monday, 25 October. Cameroon, the CBD Women's Caucus, Thailand and Tanzania called for enhancing implementation of the Gender Plan of Action and creating a CBD staff position on gender.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.17), the COP, *inter alia*, requests the Secretariat to enhance efforts to fully implement the Plan of Action to mainstream gender considerations in all aspects of the CBD work; and invites parties to consider gender as a cross-cutting issue in the implementation of biodiversity-related activities.

#### FOURTH REVIEW OF THE FINANCIAL MECHANISM:

The item was first addressed by WG II on Tuesday, 19 October, and then discussed in the contact group on financial issues, chaired by M.F. Farooqui (India) and Robert Lamb (Switzerland), from 20-26 October. WG II adopted three draft decisions on Wednesday, 27 October, on: the review of guidance to the financial mechanism (UNEP/CBD/COP/10/CRP.23); the assessment of the amount of funds needed for the GEF's 6th replenishment (UNEP/CBD/COP/10/CRP.24); and the preparation for the GEF's fourth review (UNEP/CBD/COP/10/CRP.25). On Friday, 29 October, WG II approved a draft decision on additional guidance (UNEP/CBD/COP/10/CRP.31).

Discussions mainly focused on the process for collecting the consolidated guidance, the assessment of the effectiveness and the need for incremental funding for implementation of the Convention's objectives, including for updating NBSAPs.

On the review of the guidelines on the financial mechanism, many parties supported the consolidated guidelines proposed

in the draft decision, which included text agreed by WGRI 3. Bolivia proposed, and parties agreed, to include additional text on inviting parties and relevant stakeholders, including ILCs, to submit information and views on the further development of programme priorities.

On the preparation of the fourth review of the effectiveness of the financial mechanism, the EU, Switzerland, Ukraine and Japan requested that the review draw on information from "all" parties, whereas the African Group requested specific reference to LDCs and SIDS, with the Philippines adding the "most environmentally vulnerable" countries. The Russian Federation proposed, and delegates agreed, to list those countries along with countries with economies in transition and developed countries.

**Final Decisions:** The decision on review of guidance (UNEP/CBD/COP/10/L.29) includes an annex with consolidated guidance to the financial mechanism, which is based on text collected from prior guidance provided by the COPs to the GEF.

The COP decides that guidance to the financial mechanism, for a specific replenishment period, consists of a consolidated list of programme priorities that defines what is to be financed, and an outcome-oriented framework; invites parties and relevant stakeholders, including ILCs, to submit information and views on further development of programme priorities, by 30 November 2011, and requests the Secretariat to compile the information for WGRI 4 consideration.

The annex includes sections on policy and strategies and programmes priorities and eligibility criteria, among others.

The decision on the assessment of the funds needed for the implementation of the Convention for the sixth GEF replenishment (UNEP/CBD/COP/10/L.30) contains the ToRs for a full assessment of the funds needed for the implementation of the Convention for the sixth GEF replenishment.

In the decision, the COP, *inter alia*: adopts the ToRs for a full assessment of the amount of funds that are necessary to assist developing country parties in fulfilling their commitments under the Convention for the sixth GEF replenishment; requests the Secretariat to ensure completion of the assessment in time for WGRI 4 consideration; and invites parties to expedite the development of country-specific resource mobilization strategies as part of revised NBSAPs.

The annexed ToRs for a full assessment of the funds needed for the implementation of the Convention contain sections on objective, scope, methodology, procedures for implementation, and consultation process.

The decision on preparation for the fourth review of the effectiveness of the financial mechanism (UNEP/CBD/COP/10/L.31) contains annexed ToRs for the fourth review of the effectiveness of the financial mechanism. In the decision, the COP: decides to adopt the ToRs; requests the Secretariat to ensure the implementation of the review; and decides to consider further actions to improve the effectiveness of the financial mechanism at COP 11.

The annexed ToRs contain objectives, methodology, criteria and procedures for implementation, including that the effectiveness of the financial mechanism shall be assessed taking into account, *inter alia*: the actions taken by the financial mechanism in response to the guidance of COP; and the number

of developing country parties that receive timely, adequate and predictable funds to meet the agreed full incremental cost to them of implementing measures that fulfill the CBD obligations.

The decision on additional guidance to the financial mechanism (UNEP/CBD/COP/10/L.47) contains sections on NBSAPs, biodiversity integration, country specific resource mobilization strategies, GTI, indicators and monitoring, GSPC, PAs, Article 8(j) and related provisions, ABS, technology transfer and cooperation, the CHM, South-South cooperation on biodiversity, national reporting, marine and coastal biodiversity, the Cartagena Protocol on Biosafety and biodiversity and climate change.

In the decision, the COP, requests the GEF to, *inter alia*:

- provide adequate and timely financial support for updating NBSAPs;
- further develop approaches on the integration of biodiversity into poverty eradication and development processes;
- provide financial and technical support to eligible countries;
- continue to provide funding for GTI proposals;
- provide support to respond to the capacity needs of eligible parties in developing national targets and monitoring frameworks; and
- provide financial support to assist with the early ratification of the Nagoya Protocol on ABS and its implementation.

The decision urges parties, in particular developed country parties, and invites other governments and international financial institutions to provide adequate, predictable and timely financial support to eligible countries to enable the full implementation of the PA work programme. The decision invites the GEF and others to extend support for capacity building to eligible countries, in order to identify ecologically or biologically sensitive areas (EBSAs) and/or vulnerable marine areas in need of protection; and requests the Secretariat to, *inter alia*, identify indicators to measure and facilitate reporting on the achievement of social, cultural and economic benefits for biodiversity, climate change and combating desertification or land degradation.

### ISSUES FOR IN-DEPTH CONSIDERATION

**INLAND WATERS:** Delegates first discussed inland waters in WG I on Monday, 18 October, and considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.2) on 22 and 25 October. Discussion focused on references to water security. Switzerland proposed referring to water security “for ecosystem services.” Brazil, supported by Canada and the Arab Countries, proposed replacing references to water security with “natural resources,” “water supply,” “sustainable water supply,” “sustainable use of water resources” and “water quality and availability,” depending on the context. The African Group, supported by New Zealand, suggested referring to “water for ecosystem services,” stressing that this should be reflected in the strategic plan. Norway favored reference to water security. The EU suggested replacing the term with “adequate quantity and quality water supply.” Delegates decided to address the issue on a case-by-case basis.

**Final Decision:** The decision (UNEP/CBD/COP/10/L.11) contains sections on: implementation of the work programme; climate change; scientific needs; biodiversity and natural disasters; and biodiversity, water and the strategic plan. An annex

contains ToRs for an expert group on the role of biodiversity in supporting the water cycle and associated ecosystem services. The COP, *inter alia*:

- invites the Secretariat, the Ramsar Convention Scientific and Technical Review Panel and others to establish an expert group to provide key policy relevant messages on maintaining the ability of biodiversity to continue to support the water cycle;
- invites parties and others to submit to the Secretariat science- and/or local-knowledge-based information and case studies relevant to the work of the expert group; and
- urges parties and others to mainstream biodiversity into all sectors and levels of government and society as a contribution to the achievement of CBD objectives.

**MARINE AND COASTAL BIODIVERSITY:** This item was addressed in WG I on Monday and Tuesday, 19-20 October. It was then taken up in a contact group chaired by Renée Sauv  (Canada), a drafting group, and a Friends of the Chair group also chaired by Sauv . A draft decision (UNEP/CBD/COP/10/WG.1/CRP.13) was adopted on Thursday, 28 October.

Discussions focused on: the proposed establishment of a CBD global inventory of EBSAs; designation of marine protected areas (MPAs) in areas beyond national jurisdiction (ABNJ); and an expert workshop on marine biodiversity and climate change.

**Ecologically or biologically sensitive areas:** On applying the CBD criteria for the establishment of EBSAs, Mexico, Brazil, Canada, India, Honduras, Guatemala and Ukraine, speaking also for Georgia and the Russian Federation, favored emphasizing the role of the UN General Assembly. The African Group, Haiti and Venezuela preferred emphasizing the role of the CBD. Thailand, Fiji and Egypt suggested a combination of the two options. Norway emphasized the role of regional competent organizations. Delegates eventually agreed to note that the application of CBD scientific criteria on EBSAs is a scientific and technical exercise and that the selection of conservation and management measures for EBSAs is a matter for states and competent intergovernmental organizations.

Mexico, Brazil and Jamaica opposed the creation of a CBD global inventory of EBSAs in ABNJs; while the EU, Birdlife International, Census of Marine Life and WWF supported it, with the EU suggesting that it be funded by the GEF. Delegates eventually agreed to establish a repository for scientific and technical information related to the application of the scientific criteria on EBSAs identification and other relevant nationally and internationally agreed scientific criteria.

**MPAs:** Norway, Venezuela and Brazil opposed reference to a process towards the designation of MPAs in ABNJ. The African Group supported a process towards designation of MPAs in ABNJ in the framework of the UN General Assembly, with the Deep Sea Conservation Coalition and Pew Environment Group recommending this as a matter of high priority. Delegates eventually agreed to invite the General Assembly and its Working Group on Marine Biodiversity in ABNJs to expedite work on its agenda, including consideration of issues of MPAs.

**Climate change:** Malaysia, the African Group and Timor Leste supported an expert workshop on climate change impacts on ocean areas. Thailand, Egypt, Canada, India and Honduras favored a joint CBD-United Nations Framework

Convention on Climate Change (UNFCCC) expert workshop to promote better understanding of issues of common interest. Tanzania, Costa Rica, Venezuela, Uruguay, Guatemala, Haiti, Pakistan and Jamaica preferred requesting the CBD to include the interaction between oceans and climate change in future collaboration with the UNFCCC, with El Salvador proposing inclusion of mitigation alternatives and adaptation options. Papua New Guinea noted that the expert workshop can result in CBD-UNFCCC collaboration. The IIFB urged studies of climate change impacts on marine biodiversity and indigenous peoples' livelihoods. Delegates eventually agreed to request the Secretariat to: include the interaction between oceans and climate change, and alternatives for mitigation and adaptation strategies, in the proposal to develop joint activities among the Rio Conventions; and hold an expert workshop on marine biodiversity and climate change, inviting collaboration with the UNFCCC, as inputs for the development of joint activities between the Rio Conventions.

**Final Decision:** The decision (UNEP/CBD/COP/10/L.42) includes sections on: in-depth review of progress in implementing the programme of work; identification of EBSAs and scientific and technical aspects relevant to environmental impact assessment in marine areas; impacts of unsustainable fishing, and illegal, unreported and unregulated fishing; impacts of ocean fertilization; impacts of ocean acidification; impacts of human activities; and an annex containing an indicative list of activities for enhancing the conservation and sustainable use of biodiversity of marine living resources in ABNJ.

On EBSAs, the COP notes that: the application of the CBD scientific criteria for identifying EBSAs is a tool that parties and competent intergovernmental organizations may choose to use to progress towards the implementation of ecosystem approaches in relation to ABNJs; their application is a scientific and technical exercise; and the identification of EBSAs and selection of conservation and management measures is a matter for states and competent intergovernmental organizations. The COP requests the Secretariat, in collaboration with relevant international organizations and governments, to establish a repository for scientific and technical information and experience related to the application of the scientific criteria on EBSAs identification and other relevant nationally and internationally agreed scientific criteria.

On MPAs, the COP invites the UN General Assembly and its Working Group on marine biodiversity in ABNJs to expedite its work on approaches to promote international cooperation and coordination for the conservation and sustainable use of biodiversity in ABNJs, and consideration of issues of MPAs, and urges parties to take action to advance the work of its Working Group.

On climate change, the COP requests the Secretariat to convene, inviting collaboration with UNFCCC, an expert workshop on the role of marine biodiversity and ecosystems in climate change adaptation and mitigation, in support of the development of elements on marine biodiversity and climate change as inputs to the development of joint activities between the Rio Conventions.

**MOUNTAIN BIODIVERSITY:** WG I discussed mountain biodiversity on Monday, 18 October, and adopted a draft decision

(UNEP/CBD/COP/10/WG.1/CRP.1) on Friday, 22 October. New Zealand, opposed by the EU and the African Group, proposed deleting references to people's well-being. Delegates eventually agreed to refer to "providing ecosystem services thus contributing to ensuring the well-being of people." Delegates also discussed the establishment of conservation corridors, taking into account the need to avoid the spread of IAS.

**Final Decision:** The decision (UNEP/CBD/COP/10/L.2) contains sections on: the status and trends of mountain biodiversity, and three programme elements on direct actions, means, and supporting actions for implementation for conservation, sustainable use and benefit-sharing. The COP, *inter alia*: invites parties and others to establish conservation corridors and connectivity taking into account particular endemic species, while avoiding the spread of IAS; and encourages parties and others to develop upland-lowland interactions, with the aim of strengthening the conservation and sustainable use of mountain biodiversity through the provision of ecosystem services, thus contributing to ensuring the well-being of people.

**PROTECTED AREAS:** WG I first considered this issue on Tuesday, 19 October, and approved a draft decision (UNEP/CBD/COP/10/WG.1/CRP.3) on Monday, 25 October. Discussions mainly focused on sustainable finance and climate change.

**Sustainable finance:** Belarus called for preparing methodological guidelines for estimating costs of establishing PAs. The Philippines, supported by China, Argentina, India, Honduras, Indonesia and Saint Lucia, proposed removing brackets regarding the provision of adequate, predictable and timely financial support to developing countries. Uruguay proposed text to remind the UNFCCC to pay attention to climate financing mechanisms related to PAs. The EU stressed the role of NBSAPs as a basis for accessing resources under the fifth GEF replenishment. Nepal noted that an increase in the number of PAs requires an increase in funding. On a call to parties to express their funding needs, delegates agreed to reference the LifeWeb Initiative, and to urge donors and countries in a position to do so to support funding needs.

**Climate change:** Delegates discussed text calling for developing tools for use by relevant national authorities and stakeholders for planning of PA networks and climate change adaptation and mitigation measures; and substituted a request to the Secretariat to convene a special meeting of the Joint Liaison Group on the role of PAs, with one to ensure inclusion of the role of PAs when conveying a proposal to develop joint activities among the Rio Conventions.

**Final Decision:** The decision (UNEP/CBD/COP/10/L.12) contains sections on: strategies for strengthening implementation; issues that need greater attention; target and timetable issues; and an annex setting out a national profile on the implementation of the work programme. Issues that need greater attention include, amongst others: sustainable finance, climate change, management effectiveness, IAS management, inland water PAs, and the programme element on governance, participation, equity and benefit sharing.

The COP, *inter alia*:

- encourages developing countries to express their PA system-wide and project-funding needs based on their NBSAPs for



the PAs work programme, including through the LifeWeb Initiative;

- urges donors and countries in a position to do so to support funding needs;
- requests the Secretariat to ensure inclusion of the role of PAs when conveying a proposal to develop joint activities to the Secretariats of the UNFCCC and the UN Convention to Combat Desertification (UNCCD);
- invites parties to explore how funding opportunities under climate change adaptation and mitigation strategies could contribute to the implementation of the work programme, while enhancing co-benefits for biodiversity and climate change adaptation and mitigation; and
- invites parties, *inter alia* to establish clear mechanisms and processes for equitable cost and benefit-sharing and for full and effective participation of ILCs, related to PAs, in accordance with national laws and applicable international obligations.

**SUSTAINABLE USE:** WG I first addressed this issue on Wednesday, 20 October, with a draft decision (UNEP/CBD/COP/10/WG.1/CRP.4) discussed on Monday and Tuesday, 25-26 October. The discussions focused on an AHTEG on sustainable use in agriculture and forestry, and the Satoyama Initiative. A Friends of the Chair group, chaired by Alfred Oteng-Yeboah (Ghana), discussed the Satoyama Initiative.

**Technical expert group:** The Philippines supported convening an AHTEG on sustainable use in agriculture and forestry, including non-timber forest products, whereas Australia, Argentina, Brazil, Guatemala and the African Group opposed it, raising concerns about duplication of efforts within the UN system. Norway, Indonesia, New Zealand, Switzerland and the Arab Countries expressed concern about the AHTEG's ToRs being too broad, and the EU called for their careful consideration. IUCN proposed that the AHTEG also consider fisheries, aquaculture and wildlife management. Chair Hufler proposed, and delegates agreed, to request the Secretariat to compile relevant information for SBSTTA 15 consideration, rather than convene an AHTEG.

**Satoyama Initiative:** Many delegates supported the Satoyama Initiative, but some expressed concern about distorting trade or production, and others called for further information on it. Delegates eventually supported further discussion, analysis and understanding of the initiative.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.15), the COP, *inter alia*:

- invites parties to encourage the application of the polluter pays principle, and effective market-based instruments that have the potential to support sustainable use and improve the sustainability of supply chains, and to strengthen initiatives that link biodiversity, development, and poverty alleviation, for example the BioTrade Initiative of UN Conference on Trade and Development (UNCTAD);
- requests the Secretariat to report on information on how to improve sustainable use, including on international guidelines and best practices for sustainable agriculture and forestry to SBSTTA prior to COP 11; and
- recognizes and supports further discussion, analysis and understanding of the Satoyama Initiative to further

disseminate knowledge, build capacity and promote projects and programmes for the sustainable use of biological resources.

**BIODIVERSITY AND CLIMATE CHANGE:** This item was first addressed in WG I on Wednesday, 20 October. Discussions mainly focused on geo-engineering, cooperation among the Rio Conventions, and REDD+. Text on geo-engineering was considered in a Friends of the Chair group chaired by Horst Korn (Germany). Text on collaboration among the Rio Conventions and REDD+ was discussed in a contact group chaired by Hesiquio Benitez (Mexico), with REDD+ being further discussed in a Friends of the Chair group chaired by Robyn Bromley (Australia), as well as in informal ministerial consultations. On Thursday, 28 October, WG I adopted a draft decision (UNEP/CBD/COP/10/WG.1/CRP.11), with the exception of text on REDD+ safeguards, pending informal ministerial consultations, and with bracketed text on supporting development of guidance on enhancing complementarity between national forest biodiversity-related and climate change measures. The closing plenary adopted the decision, lifting the remaining brackets and approving compromise language on REDD+ safeguards resulting from the informal ministerial consultations.

**Geo-engineering:** Tuvalu, the Philippines, Costa Rica, the African Group, Switzerland, the Alianza Bolivariana para los Pueblos de Nuestra América (ALBA) Group, Grenada, Greenpeace, Ecosystems Climate Alliance and ETC Group requested that no geo-engineering is undertaken until an adequate scientific basis justifies it and associated risks are considered. The Philippines also proposed inserting language on the urgent need for a global transparent regulatory framework on geo-engineering. Brazil proposed allowing scientific activities on a small scale and within national jurisdiction. Japan noted that certain geo-engineering activities could be beneficial for biodiversity and climate change. The Russian Federation requested deletion of language on geo-engineering. Delegates then discussed: a definition or understanding of geo-engineering; the wording for a *de facto* moratorium; and an exception for scientific research.

On the definition, delegates discussed a preliminary understanding of geo-engineering, making reference to technologies reducing solar insolation or increasing carbon sequestration from the atmosphere and debating whether to explicitly exclude carbon capture and storage (CCS). Eventually delegates agreed in the Friends of the Chair group to insert, in a footnote, an understanding of geo-engineering without prejudice to future deliberation on the definition, excluding CCS from fossil fuels when it captures carbon dioxide before it is released into the atmosphere. During WG I discussions, Bolivia requested to clarify that the exclusion of CCS cannot be interpreted as an acceptance of geo-engineering activities in the draft decision, eventually agreeing to just note this concern in the meeting report.

On the *de facto* moratorium, delegates discussed whether it should be lifted after the creation of a global, transparent and effective regulatory and control mechanism. They eventually decided to mention the absence of such mechanisms, but task the Secretariat with a study of gaps in existing global

mechanisms for consideration by SBSTTA, taking into account that such mechanisms may not be best placed under the CBD. Delegates then discussed how to qualify the moratorium, eventually agreeing to refer to “climate-related geo-engineering activities that may affect biodiversity,” in accordance with the precautionary approach and CBD Article 14 (Impact Assessment and Minimizing Adverse Impacts).

On the exception for scientific research, delegates debated whether to request that it is carried out in a “confined” and “controlled” environment, within national jurisdiction, subject to prior assessment of potential impacts on the environment, and justified on the need to gather specific data. They eventually agreed to refer to a “controlled setting” and to CBD Article 3 on ensuring that activities within CBD parties’ jurisdiction or control do not cause damage to the environment of other states or beyond national jurisdiction.

**Cooperation among the Rio Conventions:** China opposed a joint work programme among the Rio Conventions, stressing the need to respect the expertise and independent mandate of the UNFCCC. Mexico, Tuvalu, Bosnia-Herzegovina, Pakistan, Mauritius, Palau, the African Group, Nepal, Switzerland, Timor Leste, Costa Rica and Greenpeace favored calling upon the CBD to convey a proposal for joint activities and a joint work programme to the other Rio Conventions. The Philippines, Colombia, South Africa, Papua New Guinea, India and Brazil preferred suggesting that parties consider the pertinence of undertaking joint activities and a joint work programme. Several parties expressed concern about the already over-burdened agenda of the UNFCCC. Delegates eventually agreed to eliminate reference to the joint work programme, and rather ask the Secretariat to convey to the other Rio Conventions a proposal for joint activities, taking note of the difference in mandate and membership of the Rio Conventions. Delegates also agreed to invite the UNFCCC and UNCCD COPs to collaborate with the Secretariat in consulting with the Bureau of the Preparatory Committee for the Rio+20 Summit on developing its agenda and submit the outcome to the Rio Convention COPs.

Finally, delegates discussed the possible convening of a joint high-level session of the Rio Conventions in connection with the Rio+20 Summit. The EU accepted to delete it, but requested specifying that the Rio Conventions’ COPs will explore how to make use of preparatory work in connection with the summit, with Brazil adding “together with the Rio+20 Bureau.”

**REDD+:** The African Group, Pakistan, Indonesia, Thailand, Japan, Switzerland, the Russian Federation, Malaysia, Switzerland, Greenpeace and IIFB called on the Secretariat to contribute to discussions on biodiversity safeguards and mechanisms to monitor impacts of REDD+ on biodiversity. Costa Rica, Mauritius, Timor Leste and Nepal preferred that the Secretariat explore opportunities, based on consultation with parties, to provide advice on REDD+ upon request. Some delegates expressed concern about referring to “biodiversity safeguards,” noting that this is not agreed language under the UNFCCC and cautioned against prejudging ongoing UNFCCC negotiations. The Ecosystems Climate Alliance noted that biodiversity safeguards do not exist in land-use provisions of the Kyoto Protocol applied to developed countries. Norway proposed calling on Collaborative Partnership on Forests (CPF) partners to

assess potential mechanisms to monitor impacts on biodiversity from ecosystem-based approaches to climate change mitigation including REDD+, the conservation of forest carbon stocks and sustainable management of forests and forest carbon stocks.

Delegates eventually agreed to request the Secretariat to: include “biodiversity concerns” in connection with REDD+ when conveying a proposal on joint activities between the Rio Conventions; identify possible indicators to assess the contribution of REDD+ to reaching the CBD objectives, in addition to assessing potential mechanisms to monitor impacts on biodiversity, without pre-empting future decisions taken under UNFCCC; and, as proposed by the informal ministerial consultations, provide advice on relevant safeguards for biodiversity without pre-empting future decisions under the UNFCCC.

**Final Decision:** The decision (UNEP/CBD/COP/10/L.36) addresses: financial issues; assessing the impacts of climate change on biodiversity; reducing climate change impacts on biodiversity and biodiversity-based livelihoods; ecosystem-based approaches for adaptation and for mitigation; recognizing biodiversity impacts of climate change mitigation and adaptation measures; valuation and incentive measures; climate change and the biodiversity of dry and sub-humid lands; and ways and means to achieve biodiversity co-benefits.

On geo-engineering, the COP invites parties and governments, according to national circumstances and priorities, to ensure, in line with decision IX/16 C on ocean fertilization, in the absence of a science-based, global, transparent and effective control and regulatory mechanism for geo-engineering, and in accordance with the precautionary approach and CBD Article 14, that no climate change-related geo-engineering activities that may affect biodiversity take place, until there is an adequate scientific basis on which to justify them and appropriate consideration of the associated risks for the environment and biodiversity and associated social, economic and cultural impacts, with the exception of small-scale scientific research studies that would be conducted in a controlled setting in accordance with CBD Article 3 (Principle), and only if they are justified by the need to gather specific scientific data and are subject to a thorough prior assessment of the potential impacts on the environment. A footnote clarifies that without prejudice to future deliberations on the definition of geo-engineering activities, the COP understands that any technologies that deliberately reduce solar insolation or increase carbon sequestration from the atmosphere on a large scale that may affect biodiversity (excluding CCS from fossil fuels when it captures carbon dioxide before it is released into the atmosphere) should be considered as forms of geo-engineering that are relevant to the CBD until a more precise definition can be developed.

The COP also requests the Secretariat to:

- compile scientific information and views of ILCs and other stakeholders on the possible impacts of geo-engineering techniques on biodiversity and associated social, economic and cultural considerations, and options on definitions and understandings of climate-related geo-engineering relevant to the CBD for SBSTTA consideration;
- undertake a study on gaps in existing science-based global, transparent and effective control and regulatory mechanisms

for climate-related geo-engineering relevant to the CBD for SBSTTA and COP consideration and communication to relevant organizations, bearing in mind that such mechanisms may not be best placed under the CBD.

On cooperation among the Rio Conventions, the COP requests the Secretariat to convey a proposal to develop joint activities between the Rio Conventions to their Secretariats; and invites the UNFCCC and UNCCD COPs to collaborate with the Secretariat through the Joint Liaison Group in:

- considering the proposed elements on joint activities on climate change, biodiversity, land degradation and ecosystem-based approaches to climate change mitigation and adaptation;
- exploring the possibility of convening a joint preparatory meeting between the Rio Conventions on possible joint activities; and
- consulting the Bureau of the Preparatory Committee of the Rio+20 Summit and exploring together with the Bureau how to make use of the preparatory work in connection with Rio+20.

On REDD+, the COP requests the Secretariat to:

- provide advice, for approval by COP 11, including on the application of relevant safeguards for biodiversity, without pre-empting any future decisions taken under the UNFCCC, based on effective consultation with parties, and with ILC participation, so that actions are consistent with the CBD objectives and avoid negative impacts on and enhance benefits for biodiversity; and
- support the development of guidance on how to create synergies between the implementation of national forest biodiversity-related measures and climate-change measures.

#### **OTHER SUBSTANTIVE ISSUES**

**AGRICULTURAL BIODIVERSITY:** WG I first considered this issue on Thursday, 21 October, and approved a draft decision (UNEP/CBD/COP/10/WG.1/CRP.10) on Wednesday, 27 October.

Discussion focused on the second phase of the joint work plan between the CBD and the FAO Commission on Genetic Resources for Food and Agriculture (CGRFA). The Philippines, Ecuador, the Pacific Islands, the African Group, the EU, Norway and Malaysia supported, opposed by Australia, work on trends in patents and other IPRs. Peru, opposed by Canada, suggested adding analysis of the use of species important for food security in other sectors. Ethiopia drew attention to the rights of subsistence farmers in developing countries. The EU, opposed by the CBD Alliance and Norway, requested deleting reference to impacts of IPRs on small-scale farmers.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.33), the COP: requests the Secretariat and invites the CGRFA to work together in designing the second phase of their joint work plan, considering, amongst others: ways and means to promote the positive and minimize/avoid the negative impacts of biofuel production and use on biodiversity, and impacts on biodiversity that affect related socioeconomic conditions.

**DRY AND SUB-HUMID LANDS:** WG I first considered this issue on Wednesday, 20 October, and discussed a draft decision (UNEP/CBD/COP/10/WG.1/CRP.6) on Tuesday, 26 October. Delegates discussed, among others, criteria for the definition of drylands under the UNCCD and CBD. Iran and the African Group, opposed by China, supported reference to differences

between the UNCCD and CBD criteria for the definition of drylands. After discussions, delegates agreed to delete this reference and adopt the revised delineation of dry and sub-humid lands for transmission to the UNCCD instead.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.14), the COP:

- adopts the revised delineation of dry and sub humid lands and requests the Secretariat to convey it to the UNCCD to inform the ongoing process on the revision of the UNCCD strategic plan;
- requests the Secretariat to ensure inclusion of the role of dry and sub-humid lands when conveying a proposal to develop joint activities between the Rio Conventions to the UNFCCC and the UNCCD; and
- urges parties and others to support activities identified in national capacity self-assessments that promote synergies among the Rio Conventions at the subnational, national and regional level, within dry and sub-humid lands.

**FOREST BIODIVERSITY:** WG I first discussed this on Wednesday, 20 October, and adopted a draft decision (UNEP/CBD/COP/10/WG.1/CRP.5) on Tuesday, 26 October, with the exception of outstanding text on REDD+, which was only included in the decision on climate change. Discussions focused on CBD work on the definition of forest and forest types in the context of cooperation with UN Forum on Forests (UNFF).

**Definitions of forest and forest types:** Norway, the EU and the Philippines, opposed by Brazil, Malaysia and Australia, favored work on improved definitions of forest and forest types. Delegates eventually agreed on compromise language noting the need to follow up on Decision IX/5 (Forest Biodiversity) as it relates to work on definitions, with the objective of further improving the biodiversity components of the Global Forest Resources Assessment.

**Final Decision:** The decision (UNEP/CBD/COP/10/L.21) includes sections on: cooperation with the UNFF, the International Tropical Timber Organization (ITTO) and the Low-Forest Cover Countries Secretariat; targeted joint activities between the CBD and UNFF; cooperation with FAO; and cooperation with CPF.

Regarding targeted joint activities with UNFF, the COP requests the Secretariat to streamline forest-related reporting, including by organizing, in collaboration with FAO, a meeting of the CPF Task Force on Streamlining Forest-related Reporting, to investigate whether there are inadequacies in forest biodiversity reporting and monitoring, aware of the need to follow up on decision IX/5, paragraph 3(g) on clarifying the definitions of forest and forest types that reflect forest biodiversity at the level appropriate for reporting and monitoring the status of forest biodiversity.

**BIOFUELS:** This item was addressed in WG I on Thursday, 21 October, and then in a contact group and Friends of the Chair group co-chaired by Giannina Santiago (Colombia) and Ole Hendrickson (Canada). WG I adopted a draft decision (UNEP/CBD/COP/10/WG.1/CRP.12) on Thursday, 28 October. Discussions mostly focused on: references to land tenure security and water; national inventories of lands; CBD work on a toolkit; and synthetic biology.

**Land tenure security and water:** The African Group, Japan, Switzerland, Jamaica and India favored a call to ensure ILCs' land rights and sustainable practices and redress negative impacts on ILCs. Brazil, Argentina and Japan opposed reference to land rights, with Brazil stressing that there is no internationally agreed definition of land tenure security. Delegates decided to discuss issues related to land and water as included in "related socio-economic conditions," recognizing the implications for ILCs. The Dominican Republic supported the inclusion of water and land tenure. Switzerland, with India, favored land tenure. The African Group, supported by the Philippines, proposed "land and land tenure, security and resources rights." Brazil preferred "access to land, water and other resources." Delegates agreed to reference "land tenure and resource rights, including water."

**National inventories:** On an invitation to parties to develop national inventories to identify areas of high biodiversity value, critical ecosystems and areas important to ILCs, the African Group and the Philippines, opposed by Brazil, supported the development of inventories of no-go areas. Eventually the Philippines accepted deletion of reference to no-go areas, provided that delegates agreed to inviting parties to assess and identify areas and ecosystems that not only could be used for biofuel production, but also that could be exempted from it.

**CBD future work:** Brazil, the Pacific Islands, the Dominican Republic, Japan and El Salvador requested the Secretariat to disseminate information on tools on biofuels and biodiversity for voluntary use. The African Group, Switzerland, Kenya, Cuba and the Arab Countries preferred that the CBD develop a toolkit of standards and methodologies on biofuels and biodiversity. Delegates eventually agreed to delete reference to a "toolkit," and instead requested the Secretariat to: analyze and disseminate information on tools for voluntary use to assess direct and indirect impacts of biofuel production and use on biodiversity and related socioeconomic conditions; and contribute to, and assist with, the ongoing work of relevant partner organizations and processes, with several qualifiers.

**Synthetic biology:** Brazil, Argentina and the EU opposed text on convening an AHTEG on synthetic biology and requesting parties to avoid release of synthetic biology into the environment. The Pacific Islands preferred undertaking an assessment of synthetic biology, rather than convening an AHTEG. New Zealand and Ghana suggested that synthetic biology be addressed intersessionally as a new and emerging issue. The Philippines, Cameroon, the Dominican Republic and Bolivia recommended ensuring that synthetic life, cell or genome, are not released into the environment. The EU proposed inviting parties to consider the issue of synthetic biology for biofuel production and use related to the three CBD objectives when implementing this decision and decision IX/2 (Biofuels and Biodiversity). Delegates eventually agreed to: urge parties to apply the precautionary approach to the release of synthetic life, cell or genome, into the environment; and acknowledge parties' entitlement in accordance with domestic legislation to suspend the release of synthetic life into the environment.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.41), the COP:

- recognizes that the impacts of biofuel production and use on biodiversity can positively or negatively affect related socioeconomic conditions, including food and energy security, as well as the consideration of land tenure and resource rights, including water, where relevant for CBD implementation, and in particular implications for ILCs;
- invites governments and relevant organizations to develop national inventories to identify areas of high biodiversity value, critical ecosystems, and areas important to ILCs, and assess and identify areas and, where appropriate, ecosystems that could be used in, or exempted from, biofuel production;
- requests the Secretariat to: compile, analyze and summarize information on tools for voluntary use, including on available standards and methodologies to assess direct and indirect effects and impacts on biodiversity of biofuel production and use, in their full life cycle as compared to that of other types of fuels, and impacts on biodiversity that affect related socioeconomic conditions; take into account the work and collaborate with relevant partner organizations and processes; and disseminate and facilitate access to such information; and
- urges governments to apply the precautionary approach to the field release of synthetic life, cell, or genome into the environment, acknowledging parties' entitlement, in accordance with domestic legislation, to suspend the release of synthetic life, cell, or genome into the environment.

**INVASIVE ALIEN SPECIES:** WG I considered this item on Thursday, 21 October, and discussed a draft decision (UNEP/CBD/COP/10/WG.1/CRP.8) on Tuesday and Wednesday, 26-27 October. Discussion focused on a proposed AHTEG on IAS introduced as pets, aquarium and terrarium species, and as live bait and live food, with particular regard to the possibility to develop international standards. In addition, language on IAS for biofuel production was discussed by the contact group on biofuels and eventually placed in the decision on IAS.

**Expert group:** The EU, Belarus, Norway, Thailand, the Republic of Korea, Costa Rica, Argentina and the African Group, opposed by Brazil, Australia, Malaysia and New Zealand, recommended that the AHTEG provide practical guidance on the development of international standards. South Africa proposed that the AHTEG develop "scientific and technical" guidance on international standards. Supporting the AHTEG, the Global Invasive Species Programme stressed the need for guidance for national implementation. Following informal consultations, delegates agreed on establishing an AHTEG to provide scientific and technical information, advice and guidance on the possible development of standards by appropriate bodies that can be used at an international level to avoid the spread of IAS that current international standards do not cover.

**IAS for biofuel production:** The Pacific Islands, Switzerland, India, the Russian Federation and the African Group favored applying the precautionary approach to the use of IAS in biofuel production and use; while Brazil and Argentina requested deletion. The Dominican Republic, Japan, Paraguay, Malawi, Jamaica and New Zealand preferred applying the precautionary approach if species used in biofuel production become invasive. Delegates eventually agreed to recognize threats to biodiversity posed by existing and new IAS, and to urge parties to apply the precautionary approach to the introduction and spread of IAS for

agricultural and biomass production, including biofuel feedstocks and for carbon sequestration, following the CBD guiding principles on IAS.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.35), the COP establishes an AHTEG to suggest ways and means, including providing scientific and technical information, advice and guidance, on the possible development of standards by appropriate bodies that can be used at an international level to avoid the spread of IAS that current international standards do not cover, to address the identified gaps and to prevent the impacts and minimize the risks associated with the introduction of IAS as pets, aquarium and terrarium species, as live bait and live food. The ToRs of the AHTEG are annexed to the decision.

The COP also urges parties to apply the precautionary approach with regard to the introduction, establishment and spread of IAS for agricultural and biomass production, including biofuel feedstocks, and for carbon sequestration, following the CBD guiding principles on IAS.

**GLOBAL TAXONOMY INITIATIVE:** WG I first discussed this on Thursday, 21 October, and addressed a draft decision (UNEP/CBD/COP/10/WG.1/CRP.7) on Tuesday and Wednesday, 26-27 October. Discussions dwelt on scientific and technical collaboration subject to the outcomes of the ABS negotiations. Delegates also discussed the inclusion of ILCs' PIC. Brazil suggested using language emerging from the ABS negotiations on "PIC and/or approval and involvement of ILCs, in accordance with national legislation," but delegates did not agree. Peru reiterated the need to require PIC for accessing ILCs' taxonomic knowledge. After deliberations, delegates agreed to make reference to the CBD objectives and, where applicable, PIC and/or approval and involvement of ILCs, as well as relevant national legislation.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.34), the COP, *inter alia*, encourages parties and others to find ways of facilitating and benefiting from regional and subregional scientific and technical collaborations in accordance with relevant national legislation and relevant requirements where applicable; and urges parties and invites others to support and implement, as appropriate, in accordance with all CBD objectives and, where applicable, with PIC and/or approval and involvement of ILCs, such actions as supporting ILCs in capturing and preserving their taxonomic knowledge.

**ARTICLE 8(J):** The issue was discussed in WG I on Thursday, 21 October, and in a Friends of the Chair group focusing on the Article 8(j) MYPOW and bracketed provisions of the ethical code. Draft decisions on ILC participation (UNEP/CBD/COP/10/WG.2/CRP.16) and *sui generis* systems (UNEP/CBD/COP/10/WG.2/CRP.17) were tabled and approved by WG II on Monday, 25 October. Draft decisions on the code of ethical conduct (UNEP/CBD/COP/10/WG.2/CRP.28) and the Article 8(j) MYPOW (UNEP/CBD/COP/10/WG.2/CRP.27) were tabled and adopted by WG II on Thursday, 28 October. In the closing plenary, delegates adopted the draft decisions lifting brackets around references to financial resources and the international ABS regime.

Discussions in WG II focused on the full and effective participation of ILCs in all CBD decision-making processes and the need for capacity-building activities, especially for

negotiating ABS arrangements and to ensure benefit-sharing for TK use. Many delegates supported further work on *sui generis* systems for TK protection, with the African Group requesting benefit-sharing for TK accessed through *sui generis* systems. The EU and New Zealand recommended that the Secretariat continue to inform the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) on CBD work in that regard.

Regarding the ethical code, Bolivia, Brazil, the IIFB and many others requested reference to PIC, rather than references to "approval and involvement," of ILCs.

Eventually, the group agreed to clarify in the rationale that the code should not be interpreted as altering domestic laws, treaties or other constructive arrangements that may already exist; and in turn to remove the brackets from numerous references to "lands and waters traditionally used and occupied by ILCs." Delegates further agreed to use language from the ABS negotiations on "PIC and/or approval and involvement of ILCs."

Regarding the MYPOW, many delegates welcomed the inclusion of a component on CBD Article 10 (sustainable use), with a focus on 10(c) (customary use) and an international meeting on the issue. In the Friends of the Chair group, discussions centered on the issue for in-depth consideration at Article 8(j) WG 7. Most delegates preferred biodiversity and climate change, with disagreement remaining about the extent to which mitigation should be considered. The EU preferred PAs and Brazil benefit-sharing modalities. Delegates agreed on ecosystem management, ecosystem services and PAs.

**Final Decisions:** The decision on ILC participation (UNEP/CBD/COP/10/L.6) contains sections on capacity-building efforts; development of communication mechanisms and tools; ILC participation in the work of the Convention; and other initiatives. The COP, *inter alia*, requests the Secretariat to convene, subject to availability of resources, capacity-building workshops.

In the decision on *sui generis* systems (UNEP/CBD/COP/10/L.7), the COP notes that: *sui generis* systems include useful elements to consider when developing such systems for TK protection at local, national, regional and international levels; and that they should be developed taking into account customary laws, practices and community protocols with the effective participation, approval and involvement of ILCs. It further invites parties to submit information and reports on measures taken for TK protection. Noting the decision of the WIPO General Assembly to undertake text-based negotiations on an international legal instrument to prevent misuse and misappropriation of TK, the COP requests the Secretariat to continue to inform the WIPO ICG on work undertaken on *sui generis* systems.

The decision on the Article 8(j) MYPOW (UNEP/CBD/COP/10/L.39) contains sections on progress reports, the in-depth review and the revised MYPOW, CBD Article 10 (sustainable use); the revised agenda for the Article 8(j) WG; indicators; participation, including the voluntary fund and local communities; capacity building; CEPA; technical guidelines for recording and documenting TK; and recommendations of the UN Permanent Forum on Indigenous Issues (UNPFII). It further

includes annexed ToRs for task 15 (development of guidelines to facilitate repatriation of information, including cultural property to facilitate recovery of TK) of the Article 8(j) MYPOW.

The COP decides: that there will be one intersessional Article 8(j) meeting, preferably back-to-back with another CBD meeting; to include a new agenda item for future Article 8(j) WG meetings, namely an in-depth dialogue on thematic areas or cross-cutting issues; and that at Article 8(j) WG 7 such dialogue will be on: ecosystem management, ecosystem services and PAs. The COP further decides to include a new major component on Article 10 (sustainable use) with a focus on Article 10(c) (customary use); requests the Article 8(j) WG to develop further guidance on sustainable use and related incentive measures; and authorizes the Secretariat to convene an international meeting to provide advice on the content and implementation of the new major component for consideration at Article 8(j) WG 7. The COP further adopts indicators on status and trends in land-use change and land tenure in the traditional territories of ILCs; and status and trends in the practice of the traditional occupations.

In the decision on the ethical code (UNEP/CBD/COP/10/L.38), the COP adopts the annexed elements of the ethical code of conduct; decides to entitle it the “Tkarihwaié:ri Code of Ethical Conduct on the Respect for the Cultural and Intellectual Heritage of ILCs Relevant to the Conservation and Sustainable Use of Biological Diversity,” with Tkarihwaié:ri being the Mohawk term for “the proper way.” It further invites parties and governments to: make use of the code to guide the development of models of codes of ethical conduct for research, access to, and use of information concerning TK, for the conservation and sustainable use of biodiversity; and to undertake education, awareness-raising and communication strategies on the code for incorporation, as appropriate, into policies and processes governing interactions with ILCs. It finally invites the GEF and funders to consider providing assistance to ILCs, particularly women, to raise their awareness and build capacity and understanding of the code.

The annexed code contains a preamble and sections on: ethical principles, including general principles and specific considerations; and methods. The rationale sets out that the elements of the code: are voluntary and intended to provide guidance for interactions with ILCs and for the development of local, national and regional codes of ethical conduct, with the aim of promoting respect, preservation and maintenance of TK relevant for the conservation and sustainable use of biodiversity; and should not be construed as altering the obligations of CBD parties or any other international instrument. They should not be interpreted as altering domestic laws, treaties, agreements or other constructive arrangements that may already exist. Where consent or authority of ILCs is required, it is the right of ILCs, according to their customary law and procedures, to identify the relevant holders of their knowledge.

The general ethical principles relate to: respect for existing settlements; intellectual property; non-discrimination; transparency/full disclosure; PIC and/or approval and involvement; intercultural respect; safeguarding collective and individual ownership; fair and equitable sharing of benefits; protection; and the precautionary approach. The specific considerations deal with: recognition of sacred and culturally

significant sites and lands and waters traditionally occupied or used by ILCs; access to traditional resources; avoidance of arbitrary removal or relocation; traditional guardianship/custodianship; recognition of ILC social structures, extended families, communities and indigenous nations; restitution and/or compensation; repatriation; peaceful relations; and supporting ILCs’ research initiatives. The methods include: negotiations in good faith, subsidiarity and decision-making; partnership and cooperation; gender considerations; full and effective participation/participatory approach; confidentiality and reciprocity.

**INCENTIVE MEASURES:** WG I considered this item on Thursday, 21 October, and discussed a draft decision (UNEP/CBD/COP/10/WG.1/CRP.8) on Tuesday and Wednesday, 26-27 October. Discussion dwelt on text concerning pervasive incentives and sustainable consumption and productions patterns.

On pervasive incentives, the EU proposed actively eliminating, phasing out or reforming existing harmful incentives to minimize or avoid their negative impacts. Canada, opposed by the EU and the Dominican Republic, suggested deleting a list of sectors impacted by perverse incentives. Delegates eventually agreed to replace the list with reference to “sectors that can potentially impact biodiversity.”

On sustainable consumption and production patterns the EU, opposed by Brazil, proposed referencing Decision IX/26 (Promoting Business Engagement) to ensure procurement policies that are in line with the CBD objectives. Delegates agreed to the EU proposal.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.22), the COP, amongst others: urges governments to prioritize and significantly increase their efforts in actively identifying, eliminating, phasing out or reforming, with a view to minimize or avoid negative impacts from, existing harmful incentives for sectors that can potentially affect biodiversity; and invites parties and others to foster implementation of sustainable consumption and production patterns for the conservation and sustainable use of biodiversity, both in the public and the private sector, including through business and biodiversity initiatives, and procurement policies that are in line with the CBD objectives.

#### **ADMINISTRATIVE AND BUDGETARY MATTERS**

On Monday, 18 October, Ahmed Djoghlaif reported on the administration of the Convention and the budget (UNEP/CBD/COP/10/7 and Add.1-2) and the proposed budget for the biennium 2011-2012 (UNEP/CBD/COP/10/25/Rev.1 and Add.2). Delegates established a budget group, chaired by Conrad Hunte (Antigua and Barbuda), which met throughout the two weeks.

Discussions focused on identifying priorities for core funding and funding for future ABS activities. In the closing plenary, Hunte reported a 4.3% increase to the core budget with increases for ABS and the Strategic Plan. The EU made adoption of the budget conditional on successful adoption of the ABS protocol, Strategic Plan and decisions related to financial issues, which were all adopted. Argentina, for G-77/China, accepted the budget as a carefully negotiated compromise and delegates adopted it without amendments. Delegates also accepted withdrawal of the draft decision on administrative arrangements with UNEP (UNEP/CBD/COP/10/L.13) as agreed in the budget group, noting that the issue is addressed in the decision on the budget.

**Final Decision:** In the decision (UNEP/CBD/COP/10/L.48), the COP: welcomes the contribution from Japan to support the implementation of the revised Strategic Plan; notes with concern that a number of parties have not paid their contributions to the core budget for 2009 and prior years urging them to pay without delay; and endorses the annexed revised administrative arrangements between UNEP and the CBD Secretariat. The COP then approves a core budget of US\$11,769,300 for the year 2011 and of US\$12,989,700 for the year 2012; urging all governments and others to contribute to the appropriate trust funds of the Convention and noting that in the preparation for the entry into force and the implementation of the ABS Protocol the current staffing component servicing the Protocol will need to be reviewed in the budget for the biennium 2013-2014. Priority meetings to be funded from the core budget include: SBSTTA 14 and 15; Article 8(j) WG 7; WGRI 4; and two Intergovernmental Committee meetings for the ABS Protocol. The budget contains a number of tables on the biennium budget, staffing requirements, resource requirements for the trust funds, and contributions. The annexed revised administrative arrangement between UNEP and the CBD Secretariat consists of: the guiding principle; financial arrangements; reimbursement for services provided to the CBD Secretariat; conference and other services, delegation of authority; and review of the agreement.

#### **HIGH-LEVEL SEGMENT**

The high-level segment was held from 27-29 October. It included: statements by heads of state and relevant international organizations; a stakeholder panel; and statements by ministers and other high-level representatives. *Earth Negotiations Bulletin* coverage of the discussions is available at: <http://www.iisd.ca/vol09/enb09542e.html>; and <http://www.iisd.ca/vol09/enb09543e.html>.

#### **CLOSING PLENARY**

COP President Matsumoto convened the closing plenary at 4:38 pm on Friday, 29 October. He reported on the high-level segment, underscoring participants' strong wish to adopt an ABS protocol, a revised strategic plan and a decision on resource mobilization. Plenary then approved pending regional group nominations for the Bureau; elected Senka Barudanovic (Bosnia and Herzegovina) as SBSTTA Chair; and heard a report on credentials. The COP 10 Bureau is made up of: Snežana Prokić (Serbia) and Ioseb Kartsivadze (Georgia) for CEE; Akram Eissa Darwich (Syria) and Chan-woo Kim (Republic of Korea) for Asia-Pacific; Spencer Thomas (Grenada) and José Luis Sutura (Argentina) for Latin America and the Caribbean; Andrew Bignell (New Zealand) and Ines Verleye (Belgium) for Western Europe and Others; and Betty Kauna Schroder (Namibia) and Ahmed Skim (Morocco) for Africa.

Regarding the date and venue for the Biosafety Protocol COP/MOP 6 and CBD COP 11, plenary adopted a decision (UNEP/CBD/COP/10/L.49) welcoming India's offer to host it in October 2012.

Following a reception hosted by India, informal consultations on outstanding issues regarding the strategic plan and resource mobilization, and a brief WG II session to adopt its report, plenary resumed at 11:10 pm. WG I Chair Hufler and WG II Chair Luna presented the Working Group reports (UNEP/CBD/

COP/10/L.1/Add.1 and UNEP/CBD/COP/10/WG.2/L.1/Rev.1). Amb. Conrad Hunte (Antigua and Barbuda) reported on the budget group's deliberations and presented the relevant decision.

COP 10 President Matsumoto introduced the draft decision on the Nagoya Protocol on ABS (UNEP/CBD/COP/10/L.43/Rev.1), noting that clean text had been submitted by the informal ministerial consultations. The EU asked to adopt the ABS protocol together with the decisions on the revised strategic plan and the Strategy for Resource Mobilization. Cuba, Bolivia and the African Group, later supported by El Salvador and Guatemala, requested adopting the three decisions one by one, noting that there was no link between them and adoption as a package would violate the rules of procedure. The EU suggested addressing outstanding brackets in the decisions on the revised strategic plan and the decision on resource mobilization. After further discussion, COP 10 President Matsumoto asked delegates to: confirm their approval of the ABS protocol; address outstanding issues regarding the revised strategic plan and the Strategy for Resource Mobilization and confirm their approval of these decisions; and then adopt all decisions one by one. Switzerland, New Zealand, the Republic of Korea and the African Group supported the proposal. Delegates then proceeded as suggested by the President and confirmed that there was no opposition to adopting the three decisions. Venezuela, Cuba, Bolivia, the African Group and the CEE made statements for the record with regard to the ABS protocol. Delegates then adopted the ABS protocol, followed by the Strategic Plan and the decision on resource mobilization, each followed by a standing ovation. Plenary then adopted the report of the meeting (UNEP/CBD/COP/10/L.1).

Ukraine, for CEE, said the protocol is a good basis for future work. Malawi, for the African Group, said that thanks to the protocol, biodiversity has great potential for green development in Africa. The Cook Islands, for Asia and the Pacific, urged countries to secure resources for Strategic Plan implementation. Saudi Arabia, for the Arab Countries, called on participants to engage in the protection of Mother Earth. Argentina, for Latin America and the Caribbean, lauded the more than 40 decisions adopted, noting that COP 10 will make a huge contribution to CBD implementation. The IIFB highlighted the Nagoya Protocol and the Ethical Code of Conduct calling for meaningful implementation. Belize, for the Central American Integration System (SICA), highlighted the decision on marine biodiversity and its importance for establishing the Mesoamerican marine corridor. India invited participants to COP 11, to be held 2012 in India. The Republic of Korea said COP 10's achievements are not perfect but will advance planet protection. New Zealand, on behalf of the Like-minded in Spirit Group of Women, lauded the reference to women's role in conserving genetic resources in the Nagoya Protocol. Two youth representatives lauded efforts by the CBD to strengthen youth participation.

Malawi presented a tribute to the Government and the people of Japan, which was adopted by acclamation. COP 10 President Matsumoto underlined Japan's commitment during the COP 10 presidency and thanked translators, chairs and co-chairs, and the *Earth Negotiations Bulletin*. CBD Executive Secretary Ahmed Djoghlaif underlined record numbers in participation during COP 10, including delegates, ministers, heads of states, members

of parliament, business and municipalities, and presented the CBD Award to COP 10 President Matsumoto and Japan's Prime Minister Naoto Kan.

President Matsumoto gaveled COP 10 to a close at 2:59 am on Saturday, 30 October 2010.

## A BRIEF ANALYSIS OF CBD COP 10

Standing ovations, tears of joy and a great feeling of relief. To some delegates, the success of COP 10 in adopting the "package" of an ABS Protocol, a revised Strategic Plan and a decision on implementation of the Strategy for Resource Mobilization marked the rebirth of environmental multilateralism. The failure, less than a year ago, to adopt a climate change agreement sparked concerns over the ability of the UN system to take decisive action on pressing global environmental problems. Against this backdrop, the poor performance against the 2010 biodiversity target and the fact that the three main challenges of COP 10 had been tied together by the G-77/China as an "all-or-nothing" package raised fears that COP 10 would suffer a similar fate as the Copenhagen Climate Conference. But delegates prevailed in Nagoya and this brief analysis will examine the elements of the package and how they will affect the future direction of the CBD.

### THE ABS PROTOCOL

After 10 years and a grueling 15 straight days of negotiation, the Nagoya Protocol on ABS was adopted. Even so, until the very end, it appeared unlikely that agreement would be reached on the most contentious points relating to scope, derivatives and compliance. In a move that was criticized by many for its lack of transparency, the Japanese COP presidency decided to convene a "secret" meeting of the EU, the African Group, Norway and Brazil in order to produce draft guidance for the informal ministerial consultations. The procedure enraged many regions, in particular the Like-Minded Asia-Pacific and Latin American and Caribbean group members who felt excluded from the key meeting in the process. As could be expected, the deal emerging from these consultations, which was accepted by the ministers involved, was not unanimously supported as a compromise proposal. It took another night of consultations and an informal ministerial breakfast to reach agreement on a text that had a chance of getting the support of all parties. While many commended the commitment and support of the Japanese Presidency to finalize the agreement, others worried that the procedure would set a dangerous precedent for future negotiations. "Behind-the-scenes deals cannot be the standard for negotiating such important issues," one delegated noted. Others felt that Japanese initiative was a "highly risky, but necessary maneuver" that evoked somber memories of the procedure that led to the Copenhagen anticlimax. In the end, it allowed cutting a deal that would have otherwise not have been reached in Nagoya as negotiations had ground to a halt.

The final compromise text was characterized by many as a "masterpiece in creative ambiguity." Instead of resolving outstanding issues by crafting balanced compromise proposals—an endeavor that would have been doomed to fail—the contentious references were either deleted from the text or replaced by short and general provisions allowing

flexible interpretation, but possibly also too wide a berth for implementation. The fundamental question of whether the protocol would cover derivatives of genetic resources was addressed by including definitions of utilization and derivatives in the provision on use of terms, complemented by indirect references in the articles on scope and benefit-sharing. This enabled the use of a rather broad definition of derivatives, as had been demanded by many developing countries. Yet the term "derivatives" does not appear in any operative paragraphs and has to be read into substantive provisions. At the same time, it is clear that products or commodities cannot be subjected to benefit-sharing obligations as they are not covered under the definition of derivatives—a key concern to developed countries.

A similar approach was taken to resolve the question of sharing benefits from new and continuing uses of genetic resources and traditional knowledge acquired prior to the entry into force of the Protocol, previously known as "temporal scope," and one of the key demands of the African Group. While there is no reference to this issue in the article on scope, a new provision envisages creation of a global multilateral benefit-sharing mechanism to address benefit-sharing in transboundary situations or situations where it is not possible to grant or obtain PIC. Such a mechanism, once established, could thus cover benefits arising from genetic resources obtained from *ex situ* collections or from countries that acquired them outside the framework of the CBD.

A long-negotiated provision on publicly available traditional knowledge, which had been strongly defended by some countries within the Like-Minded Asia-Pacific group, was deleted from the text. Still, the effect is that countries are free to subject such knowledge to ABS-related obligations in their domestic law, as such traditional knowledge is generally covered under the Protocol. At the same time, since the Protocol provides some flexibility with regard to "relevant ongoing work and practices" under other international instruments, the possibility of regulating publicly available TK under the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore remains open—a point that has been strongly defended by developed countries, primarily the EU and Canada.

The icing on the cake of ingenious ambiguity was added in the form of vague language on the establishment of checkpoints to monitor utilization of genetic resources. The final text obliges parties to establish one or more checkpoints, as requested by developing countries; but allows for flexibility on the information that must be disclosed. The disclosure requirements were the main reason for opposition from developed countries, weary of burdensome administrative procedures and unconvinced of the need for an obligation to disclose potentially confidential information. Thus, parties shall "take effective and proportional measures to address situations of non-compliance," without any indication of what such measures may be. An additional paragraph states that checkpoints "must be effective" and should have functions "relevant" to the utilization of genetic resources at stages such as research, development and commercialization. One negotiator lauded the vagueness of these provisions, as they "will provide lots of work for lawyers," who will be tasked with sorting out how to operationalize them.



Overall, most delegates felt that the compromise package was the best possible solution at this point in time, given the entrenched positions that had emerged. Some noted that the text “is not the most elegant” and that further negotiation could have produced an outcome that is more legally sound. On the other hand, most noted that failure to adopt the protocol at COP 10 would result in a loss of momentum and jeopardize the Protocol’s eventual completion. Also speaking from experience, one negotiator noted: “the longer you keep negotiating these provisions the more substance you stand to lose.”

In the end, the main strength of the protocol is also its weakness: its creative ambiguities could lead to differing interpretations at the national level and create legal uncertainty and hinder implementation. Depending on how these issues are addressed, both by the Interim Committee—possibly including the speedy establishment of the ABS-Clearing House and other facilitative mechanisms—and through implementation at the national level, the Protocol could become a powerful tool for a more balanced implementation of the CBD’s three objectives.

### **THE STRATEGIC PLAN**

The Strategic Plan was paraphrased by some as the “post-2010 global deal on biodiversity,” in an analogy to the discussions on a post-2012 international climate change regime. The poor performance against the 2010 biodiversity target fueled the expectation that the new Strategic Plan would provide not only ambitious targets for the next decade, but also a comprehensive set of measures on how to achieve them. This view, however, ignored the fact that the main function of the Strategic Plan is to serve as overarching framework to coordinate and align the myriad of CBD’s activities under its different programme areas, as well as a guide to collaboration with other MEAs, particularly biodiversity-related ones, and for coherent and effective national implementation.

This guiding function of the Strategic Plan makes it an important instrument to transition the CBD towards a stronger emphasis on mainstreaming biodiversity concerns across all human activities. The wording of the Plan’s vision “by 2050 biodiversity is valued, conserved, restored and wisely used, maintaining ecosystem services, sustaining a healthy planet and delivering benefits essential for all people” points towards several trends in the work of the CBD. The reference to valuing ecosystem services, along with several paragraphs on the TEEB study and methodologies for integrating biodiversity values into national accounting, provides for the further development of these within the various work programmes of the CBD.

Furthermore, delegates resisted the temptation of overloading the Strategic Plan with measurable outcome-oriented targets at the global level. Instead, the plan provides a flexible framework for setting targets at the regional, national and subnational levels, allowing parties to integrate biodiversity concerns into all sectors. On the one hand, this avoids the fallacy of aggregating data on biodiversity and ecosystem services at the global level, using indicators that are likely to ignore the diversity of circumstances under which measures for conservation and sustainable use are being implemented—an approach conceptually at odds with the objective of mainstreaming. On the other hand, this approach places an immense responsibility on parties to diligently set their own targets and monitor progress.

The weakness of the Strategic Plan is therefore that all actions that would allow monitoring and enforcing progress towards the achievement of the new global mission—to take effective measures to halt biodiversity loss to ensure that by 2020 ecosystems are resilient—are voluntary.

### **THE STRATEGY FOR RESOURCE MOBILIZATION**

The third part of the package was further refinement of the Strategy for Resource Mobilization. Developing countries had added the strategy to the package to back up their long-standing demands for sufficient financing of national implementation of the CBD. Consequently, they focused on developing targets and indicators to assess financing flows, whereas developed countries wanted to prioritize innovative financing mechanisms, allegedly in an attempt to shift at least part of the burden towards the private sector. Positions on the latter became particularly polarized. One of the reasons is that the concept of innovative financing mechanisms remains vague and subject to different interpretations across the developed-developing country divide.

One of the concepts advanced, for instance, was the Green Development Mechanism, a market-based certification scheme modeled after the UNFCCC’s Clean Development Mechanism that could reward trade-certified “land areas managed in compliance with the CBD” in accordance with requirements for offsets and restoration for the private sector. Because of such similarities with the CDM, the initiative was opposed by most developing countries concerned that the distribution of benefits will be similarly unbalanced as under the CDM. The lack of studies and documented successful experiences of innovative financing more generally also fueled the concerns of the ALBA group over undue “commodification” of nature, which could arguably not only have detrimental effects on biodiversity, but also violate human rights. On the other hand, developed country delegates regretted the lost opportunity for the CBD to fully engage innovative financing mechanisms, in particular since the TEEB study demonstrated that there is potential to generate funding for at least some elements of CBD implementation through market-based schemes. At the end of the day, however, delegates didn’t seem too preoccupied with this. As one seasoned observer commented, “I am glad that we still focused on the most innovative financing mechanism for CBD implementation—the ABS Protocol.”

### **NAGOYA EXORCISES THE GHOST OF COPENHAGEN**

The adoption of the package, in particular the Nagoya Protocol on ABS, was rightfully celebrated as a major success in the history of the CBD. And in this light, fears of “another Copenhagen,” popularized by the media, seem both overblown and inadequate. Aside from the package, COP 10 adopted more than 40 other decisions, including unprecedented developments on new complex issues such as geo-engineering and synthetic biology. Not all other decisions lived up to expectations, but taken together, they represent a significant step forward in multilateral cooperation on biodiversity. The CBD’s approach to implementation based on the ecosystem approach, and its mechanism for addressing new and emerging issues would have allowed work on implementation of the Convention to continue whether or not the package had been adopted. In contrast to the climate change regime, where key activities on implementation,

such as the carbon market, depend on adopting a global deal on mitigation, the CBD's agenda is being advanced through a multi-faceted system of work programmes, collaborations and partnerships across the environmental-policy board. So, even if COP 10 had failed to adopt "the package," the remaining decisions would have allowed work on implementation of the Convention to continue.

A number of developments indicate that the CBD is in the middle of an important transformation process, towards an approach that integrates biodiversity concerns into all areas of human activity. The Strategic Plan and activities such as the TEEB study can give an important impulse to accelerate this transition. With the adoption of the ABS Protocol, it can be expected that future COPs will devote more attention to repositioning the CBD as the key international instrument to further efforts towards "life in harmony with biodiversity." COP 10 has been a necessary and important step in that direction, not least because it showed that "Copenhagen" was a phenomenon specific to the politics of global climate change cooperation, rather than a crisis of the UN System and of global environmental multilateralism as a whole.

## UPCOMING MEETINGS

**Global Conference on Agriculture, Food Security and Climate Change:** This meeting, organized by the Government of the Netherlands in cooperation with the Governments of Ethiopia, Norway and New Zealand, the World Bank and the FAO, aims to provide concrete actions to link the implementation of agriculture-related investments, policies, and measures with long-term carbon emission reductions and adaptation benefits. **dates:** 31 October – 5 November 2010 **location:** The Hague, the Netherlands **contact:** Ministry of Agriculture, Nature and Food Quality of the Netherlands **email:** agriculture2010@minlnv.nl **www:** <http://www.afcconference.com/>

**Progress on Ecosystem-Based Fisheries Management (EBFM) Symposium:** The 26th Lowell Wakefield Fisheries Symposium will bring together fisheries scientists from around the world to evaluate whether EBFM is being successfully implemented. The meeting is co-sponsored by the FAO. **dates:** 8-11 November 2010 **location:** Anchorage (Alaska), United States of America **contact:** Alaska Sea Grant **phone:** +1-907-474-7086 **fax:** +1-907-474-6285 **email:** seagrant@uaf.edu **www:** <http://seagrant.uaf.edu/conferences/2010/wakefield-ecosystems/info.php>

**UNFCCC COP 16 and COP/MOP 6:** The 16th session of the Conference of the Parties (COP) to the UNFCCC and the sixth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP) will be held together with the 33rd meetings of the SBI and SBSTA. **dates:** 29 November - 10 December 2010 **location:** Cancun, Mexico **contact:** UNFCCC Secretariat **phone:** +49-228-815-1000 **fax:** +49-228-815-1999 **email:** secretariat@unfccc.int **www:** [http://unfccc.int/meetings/cop\\_16/items/5571.php](http://unfccc.int/meetings/cop_16/items/5571.php)

**Agriculture and Rural Development Day 2010:** The fourth Agriculture and Rural Development Day (ARDD) will convene in conjunction with the Cancun Climate Change Conference.

**date:** 4 December 2010 **location:** Cancun, Mexico **contact:** ARDD Secretariat **email:** info@agricultureday.org **www:** <http://www.agricultureday.org>

**Forest Day 4:** This event will convene in conjunction with the Cancun Climate Change Conference. **date:** 5 December 2010 **location:** Cancun, Mexico **www:** <http://www.cifor.cgiar.org/Events/ForestDay4/>

**Meeting on "Regions and Biodiversity in a Context of Climate Change":** This event is jointly sponsored by FAO, UNDP and UNEP. **dates:** 14-16 December 2010 **location:** Brest, France **contact:** FAO **email:** Climate-change@fao.org **www:** <http://www.fao.org/climatechange/49362/en/>

**Closing of IYB - Contribution to the International Year of Forests:** This activity is organized by the CBD Secretariat. **dates:** 18-19 December 2010 **location:** Kanazawa, Japan **contact:** David Ainsworth, CBD Secretariat **phone:** +1-514-287-7011 **fax:** +1-514-288-6588 **email:** david.ainsworth@cbd.int **www:** <http://www.cbd.int/events>

**UNFF 9:** The theme for the ninth session of the UN Forum on Forests is forests for people, livelihoods and poverty eradication. UNFF 9 is also expected to complete consideration of the means of implementation for sustainable forest management. **dates:** 24 January - 4 February 2011 **location:** UN Headquarters, New York **contact:** UNFF Secretariat **phone:** +1-212-963-3401 **fax:** +1-917-367-3186 **email:** unff@un.org **www:** <http://www.un.org/esa/forests/>

**ITPGR GB 4:** The fourth session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture will address, among others, compliance, implementation issues regarding the Treaty's Multilateral System, and the outstanding financial rules. **dates:** 14-18 March 2011 **location:** Bali, Indonesia **phone:** +39-06-570-53441 **fax:** +39-06-570-56347 **email:** pgrfa-treaty@fao.org **www:** <http://www.planttreaty.org/>

**CITES PC 19:** The 19th meeting of the CITES Plants Committee is organized by the CITES Secretariat. **dates:** 18-21 April 2011 **location:** Geneva, Switzerland **contact:** CITES Secretariat **phone:** +41-22-917-81-39/40 **fax:** +41-22-797-34-17 **email:** info@cites.org **www:** <http://www.cites.org/eng/news/calendar.shtml>

**Nagoya Protocol IC 1:** The first meeting of the Intergovernmental Committee of the Nagoya Protocol on ABS is organized by the CBD Secretariat. **dates:** 6-10 June 2011 **location:** to be determined **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/>

**Sixth Forest Europe Ministerial Conference:** This conference is organized in the framework of the pan-European policy process for the sustainable management of the continent's forests. **dates:** 14-16 June 2011 **location:** Oslo, Norway **contact:** Liaison Unit Oslo **phone:** +47-64-94-8930 **fax:** +47-64-94-8939 **email:** liaison.unit.oslo@foresteurope.org **www:** <http://www.foresteurope.org/eng/Events/>

**CGRFA 13:** The 13th session of the Commission on Genetic Resources for Food and Agriculture will be preceded by a special event on climate change. **dates:** 16-22 July 2011 **location:**

Rome, Italy **contact:** CGRFA Secretariat **phone:** +39-06-5705-4981 **fax:** +39-06-5705-5246 **email:** cgrfa@fao.org **www:** <http://www.fao.org/nr/cgrfa/cgrfa-home/en/>

**CITES AC 25:** The 25th meeting of the CITES Animals Committee is organized by the CITES Secretariat. **dates:** 18-22 July 2011 **location:** Geneva, Switzerland **contact:** CITES Secretariat **phone:** +41-22-917-81-39/40 **fax:** +41-22-797-34-17 **email:** info@cites.org **www:** <http://www.cites.org/eng/news/calendar.shtml>

**CITES SC 61:** The 61st meeting of the CITES Standing Committee is organized by the CITES Secretariat. **dates:** 15-19 August 2011 **location:** Geneva, Switzerland **contact:** CITES Secretariat **phone:** +41-22-917-81-39/40 **fax:** +41-22-797-34-17 **email:** info@cites.org **www:** <http://www.cites.org/eng/news/calendar.shtml>

**UNCCD COP 10:** The tenth session of the Conference of the Parties (COP 10) to the UN Convention to Combat Desertification (UNCCD) will take place in October 2011. **dates:** 10-21 October 2011 **location:** Changwon City, Republic of Korea **contact:** UNCCD Secretariat **phone:** +49-228-815-2800 **fax:** +49-228-815-2898 **email:** secretariat@unccd.int **www:** <http://www.unccd.int/>

**CMS COP 10:** The 10th meeting of the Conference of the Parties to the Convention on Migratory Species will be preceded by the 17th meeting of the Scientific Council (17-18 November), the 38th meeting of the Standing Committee (19 November) and the first Meeting of the Signatories to the Bukhara Deer MoU (19 November). It will be followed by the first Meeting of Signatories to the Andean Flamingo MoU (26 November), the second Meeting of the Parties to the Gorilla Agreement (26-27 November) and the seventh meeting of the Standing Committee of the African Eurasian Waterbird Agreement (AEWA) (26-27 November). **dates:** 20-25 November 2011 **location:** Bergen, Norway **contact:** UNEP/CMS Secretariat **phone:** +49-228-815-2426 **fax:** +49-228-815-2449 **email:** secretariat@cms.int **www:** <http://www.cms.int/news/events.htm>

**Nagoya Protocol IC 2:** The second meeting of the Intergovernmental Committee of the Nagoya Protocol on ABS is organized by the CBD Secretariat. **dates:** 23-27 April 2012 **location:** to be determined **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/>

**AEWA MOP 5:** The fifth session of the Meeting of the Parties to African-Eurasian Waterbird Agreement (AEWA) is organized by the UNEP/AEWA Secretariat. **dates:** 14-18 May 2012 **location:** La Rochelle, France **contact:** UNEP/AEWA Secretariat **phone:** +49-228-815-2414 **fax:** +49-228-815-2450 **email:** aewa@unep.de **www:** [http://www.unep-aewa.org/meetings/en/mop/mop\\_overview.htm](http://www.unep-aewa.org/meetings/en/mop/mop_overview.htm)

**Biosafety Protocol COP/MOP 6:** The sixth meeting of the Conference of the Parties to the CBD serving as Meeting of the Parties to the Cartagena Protocol on Biosafety is tentatively scheduled for October 2012. **dates:** 1-5 October 2012 **location:** India **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/>

**CBD COP 11:** The eleventh meeting of the Conference of the Parties to the Convention on Biological Diversity is tentatively scheduled for October 2012. **dates:** 8-19 October 2012

**location:** India **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/>

## GLOSSARY

ABNJ	Areas beyond national jurisdiction
ABS	Access and benefit-sharing
AHTEG	Ad hoc Technical Expert Group
CBD	Convention on Biological Diversity
CEPA	Communication, education and public awareness
CHM	Clearing House Mechanism
COP	Conference of the Parties
CPF	Collaborative Partnership on Forests
EBSA	Ecologically and biologically significant area
GBO	Global Biodiversity Outlook
GEF	Global Environment Facility
GSPP	Global Strategy for Plant Conservation
GTI	Global Taxonomy Initiative
IAS	Invasive alien species
ICG	Intergovernmental Committee
IIFB	International Indigenous Forum on Biodiversity
ILC	Indigenous and local community
IPBES	Intergovernmental Platform on Biodiversity and Ecosystem Services
IPR	Intellectual property rights
LDCs	Least developed countries
MAT	Mutually agreed terms
MEA	Multilateral environmental agreement
MPA	Marine protected area
MYPOW	Multi-year programme of work
NBSAP	National biodiversity strategy and action plan
NFP	National focal point
PA	Protected area
PIC	Prior informed consent
REDD+	Reducing emissions from deforestation and forest degradation in developing countries, and forest conservation, sustainable forest management and enhancement of forest carbon stocks
SBSTTA	Subsidiary Body on Scientific, Technical and Technological Advice
SIDS	Small island developing states
TEEB study	The Economics of Ecosystems and Biodiversity study
TK	Traditional knowledge
UNCCD	UN Convention to Combat Desertification
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNFCCC	UN Framework Convention on Climate Change
WG	Working Group
WGRI	Working Group on Review of Implementation of the Convention
WIPO	World Intellectual Property Organization



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- A link to the most recent "Biodiversity Update," a periodic feed of recent posts to the Biodiversity Policy & Practice knowledgebase;
- A Calendar of upcoming intergovernmental events related to international biodiversity policy;
- A link to our Biodiversity iCalendar, which automatically updates your own calendar program with upcoming biodiversity events; and
- A link to our RSS feed.

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For further information on this initiative or to provide us with information about your biodiversity-related activity, please contact Faye Leone, Content Editor, at [faye@iisd.org](mailto:faye@iisd.org).



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