

## SECOND MEETING OF THE INTERGOVERNMENTAL COMMITTEE FOR THE NAGOYA PROTOCOL ON ACCESS AND BENEFIT-SHARING TO THE CONVENTION ON BIOLOGICAL DIVERSITY: 2-6 JULY 2012

The second meeting of the Open-ended *Ad Hoc* Intergovernmental Committee for the Nagoya Protocol (ICNP) on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) to the Convention on Biological Diversity (CBD) begins today in New Delhi, India. It was preceded by a capacity-building workshop on ABS, co-organized by the Secretariats of the CBD and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR), held from 30 June – 1 July 2012.

The meeting will continue consideration of items discussed at ICNP 1, including: modalities of operation of the ABS clearing-house; measures to assist in capacity building, capacity development and strengthening of human and institutional capacities in developing countries; measures to raise awareness of the importance of genetic resources and associated traditional knowledge; and cooperative procedures and institutional mechanisms to promote compliance with the Protocol and address cases of non-compliance. In addition, it will consider the need for, and modalities of, a global multilateral benefit-sharing mechanism; elaborate guidance for the financial mechanism and for resource mobilization for the Protocol's implementation; develop a budget for the biennium following the Protocol's entry into force; and prepare for the first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Protocol by considering its rules of procedure and a draft provisional agenda.

### A BRIEF HISTORY OF THE ABS PROTOCOL

The Nagoya Protocol on ABS was adopted at the tenth meeting of the Conference of the Parties (COP) to the CBD on 29 October 2010, in Nagoya, Japan. The objective of the Protocol 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 the conservation of biodiversity and the sustainable use of its components. The Protocol has 92 signatures and 5 ratifications to date. It will enter into force 90 days after the deposit of the 50th instrument of ratification.

The Convention's work on ABS was initiated at COP 4 (May 1998, Bratislava, Slovakia) when parties established a regionally-balanced expert panel on ABS. The expert panel held two

meetings (October 1999, San José, Costa Rica; and March 2001, Montreal, Canada) and developed a set of recommendations, including on prior informed consent (PIC), mutually agreed terms (MAT), approaches for stakeholder involvement and options to address ABS within the CBD framework. COP 5 (May 2000, Nairobi, Kenya) established the Working Group on ABS to develop guidelines and other approaches on: PIC and MAT; participation of stakeholders; benefit-sharing mechanisms; and the preservation of traditional knowledge.

**ABS 1:** At its first meeting (October 2001, Bonn, Germany), the Working Group on ABS developed the draft Bonn Guidelines on ABS, identified elements for a capacity-building action plan, and considered the role of intellectual property rights (IPRs) in the implementation of ABS arrangements.

**COP 6:** At its sixth meeting (April 2002, The Hague, the Netherlands), the COP adopted the Bonn Guidelines on ABS and also considered the role of IPRs in the implementation of ABS arrangements, and the relationship with the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization.

**WSSD:** In the Johannesburg Plan of Implementation, the UN World Summit on Sustainable Development (WSSD) (September 2002, Johannesburg, South Africa) called for negotiating, within the CBD framework, an international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources.

**ABS 2:** At its second meeting (December 2003, Montreal, Canada), the ABS Working Group debated the process, nature, scope, elements and modalities of an international ABS regime, and also considered measures to ensure compliance with PIC and MAT, and capacity building.

**COP 7:** At its seventh meeting (February 2004, Kuala Lumpur, Malaysia), the COP adopted the Action Plan on capacity building for ABS, mandated the ABS Working Group to elaborate and negotiate an international ABS regime and set out the terms of reference for the negotiations.

**ABS 3 and 4:** At its third and fourth meetings (February 2005, Bangkok, Thailand, and January 2006, Granada, Spain), the ABS Working Group produced draft text compilations to serve as the basis for future negotiations. It also considered additional approaches to complement the Bonn Guidelines on ABS, including an international certificate of origin/source/legal provenance.

**COP 8:** At its eighth meeting (March 2006, Curitiba, Brazil), the COP instructed the ABS Working Group to complete its work with regard to the international ABS regime at the earliest possible time before COP 10 in 2010. The COP also requested

the Working Group on Article 8(j) to contribute to the mandate of the ABS Working Group on issues relevant to traditional knowledge.

**ABS 5 and 6:** At its fifth and sixth meetings (October 2007, Montreal, Canada, and January 2008, Geneva, Switzerland), the ABS Working Group focused on the main components of the international regime on ABS, including fair and equitable sharing of benefits, access to genetic resources, compliance, traditional knowledge and genetic resources, and capacity building.

**COP 9:** At its ninth meeting (May 2008, Bonn, Germany), the COP adopted a roadmap for the negotiation of the international regime, ensuring that the ABS Working Group will meet three times before the 2010 deadline for completion of negotiations. The COP also established three expert groups, and instructed the ABS Working Group to finalize the international regime and to submit an instrument/instruments for consideration and adoption by COP 10. The three expert groups (concepts, terms, working definitions and sectoral approaches; compliance; and traditional knowledge associated with genetic resources) each met once between December 2008 and June 2009.

**2009-2010 NEGOTIATIONS:** The ABS Working Group met four times between COPs 9 and 10 (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 consolidated 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 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 compromise, including scope and pathogens, derivatives and the concept of utilization of genetic resources, and mechanisms to support compliance. An additional meeting of the ING convened in September 2010, in Montreal, but several key issues remained outstanding.

**COP 10:** Immediately prior and during COP 10, held from 18-29 October 2010, in Nagoya, Japan, the ING continued negotiations. Towards the end of the meeting, informal ministerial consultations were held to discuss a compromise proposal put forward by the Japanese COP Presidency, where agreement was reached on a package relating to the remaining outstanding issues, including: the concept of utilization and derivatives, and related benefit-sharing; the provision on scope; non-arbitrary access procedures; traditional knowledge-related issues, including a provision on publicly available traditional knowledge 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 traditional knowledge that occur in transboundary situations or for which it is not possible to grant or obtain PIC; and compliance-related provisions on checkpoints, information requirements and the internationally recognized certificate of compliance. The COP adopted the clean text of the Protocol as part of a “package” including also the new CBD Strategic Plan 2011-2020 and a decision on activities and indicators for the implementation of the Strategy for Resource Mobilization. It also established the ICNP to undertake the preparations necessary for the first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP/MOP).

**ICNP 1:** At its first meeting, held from 5-10 June 2011, in Montreal, Canada, the Committee adopted four recommendations initiating work on: the modalities of operation of the ABS clearing-house; measures to assist in capacity building, capacity development and strengthening of human and institutional capacities in developing countries; measures to raise awareness of the importance of genetic resources and associated traditional knowledge; and cooperative procedures and institutional mechanisms to promote compliance with the Protocol and address cases of non-compliance.

#### INTERSESSIONAL HIGHLIGHTS

**WORKING GROUP ON ARTICLE 8(j):** Held from 31 October – 4 November 2011, in Montreal, Canada, the seventh meeting of the CBD Working Group on Article 8(j) (traditional knowledge) adopted recommendations on, among other items: Tasks 7, 10 and 12 (benefit-sharing from, and unlawful appropriation of, traditional knowledge) of the Article 8(j) Work Programme; development of elements of *sui generis* systems for the protection of traditional knowledge; mechanisms to promote the effective participation of indigenous and local communities in the work of the Convention, including a report of an expert group meeting of local community representatives; Article 10(c) (customary sustainable use) as a new major component of work on the Article 8(j) work programme; and development of indicators relevant for traditional knowledge and customary sustainable use.

**EXPERT MEETING ON COMPLIANCE:** Held from 28 February – 1 March 2012, in Montreal, Canada, the meeting heard presentations by other treaty secretariats with a view to learning from experiences in relevant international fora, and worked towards reaching a common understanding on draft elements and options for procedures and mechanisms on compliance, including: their objectives, nature and underlying principles; institutional mechanisms, namely a compliance committee, and their functions; and procedures in relation to the compliance committee.

**WIPO IGC:** Following a renewal of its mandate by the General Assembly of the World Intellectual Property Organization (WIPO) (26 September – 5 October 2011, Geneva, Switzerland), the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) held its 20th session focusing on genetic resources (14-22 February 2012, Geneva), which consolidated the negotiating document; and its 21st session (16-20 April 2012, Geneva), which made progress on the draft articles on the protection of traditional knowledge, identifying areas of convergence and issues requiring further clarification and discussion.

**SBSTTA 16:** Held from 30 April – 5 May 2012, in Montreal, Canada, the 16th session of the CBD Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) adopted 15 recommendations, including two packages of recommendations on marine and coastal biodiversity, and biodiversity and climate change. It also considered its relationship with the recently established Intergovernmental Platform for Biodiversity and Ecosystem Services, and held an in-depth review of the work programme on island biodiversity.

**RIO+20:** Held from 20-22 June 2012, in Rio de Janeiro, Brazil, the UN Conference on Sustainable Development (UNCSD, or Rio+20) outcome document entitled “The Future We Want,” noted adoption of the Nagoya Protocol and invited CBD parties to ratify or accede to it, so as to ensure its entry into force at the earliest possible opportunity. It also acknowledged the role of ABS in contributing to the conservation and sustainable use of biodiversity, poverty eradication and environmental sustainability.

## ICNP 2 HIGHLIGHTS: MONDAY, 2 JULY 2012

ICNP 2 delegates met in plenary to hear opening statements, address organizational matters, and discuss guidance to the financial mechanism, resource mobilization and a multilateral benefit-sharing mechanism.

### PLENARY

**OPENING:** CBD Executive Secretary Braulio Dias outlined his priorities, including pushing for early ratification and entry into force of the Nagoya Protocol and enhancing support for implementation of the CBD and its protocols. He said the first session of the Conference of the Parties serving as the Meeting of the Parties (COP/MOP 1) is expected to be held in conjunction with the twelfth session of the Conference of the Parties (COP 12) to the CBD, adding that the COP could serve as a forum to share experiences on implementation. He underlined the need to integrate ABS into CBD work on protected areas, and forest and marine biodiversity. He also called for supporting the capacity and priorities of indigenous and local communities (ILCs) to ensure their involvement in implementation.

M.F. Farooqui (India) emphasized that ABS is a tool to enhance global and local benefits from biodiversity, and that the adoption of the Nagoya Protocol contributed to maintaining the credibility of environmental multilateralism. T. Chatterjee, Secretary of the Ministry of Environment and Forests of India, underscored India's learning-by-doing experience with domestic ABS arrangements since 2002, with achieved community benefits, and the need to chart a roadmap beyond COP 11 towards the first COP/MOP of the Protocol.

ICNP 2 Co-Chair Janet Lowe (New Zealand) stressed the need to maintain momentum to ensure entry into force in time to hold the first COP/MOP in conjunction with COP 12.

**STATEMENTS:** Peru, on behalf of LATIN AMERICAN AND THE CARIBBEAN (GRULAC), expressed the region's commitment to early ratification and stressed resource mobilization to ensure ratification and implementation.

Cameroon, for the AFRICAN GROUP, called for defining capacity-building and resource mobilization priorities. Ukraine, for CENTRAL AND EASTERN EUROPE (CEE), highlighted capacity building for developing countries, in particular economies in transition, as a key element to ensure quick entry into force. JAPAN highlighted its activities to assist with implementation, including its US\$ 12.1 million contribution to the Nagoya Protocol Implementation Fund (NPIF).

India, for ASIA-PACIFIC, suggested an additional ICNP meeting to complete tasks before COP/MOP 1. The LMMC prioritized, *inter alia*: outstanding issues on the ABS clearing-

house; compliance, including consideration of the triggers and composition of a compliance committee; the global multilateral benefit-sharing mechanism; and provision of specific guidance on the needs for the Protocol's implementation in the context of the GEF sixth replenishment.

The INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY (IIFB) noted the Nagoya Protocol's unique feature in directly addressing indigenous peoples' and local communities' resources, knowledge and cultures, and stressed that implementation must ensure their full and effective participation at all levels.

The INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE (ITPGR) underscored the close relationship between the Treaty and the Nagoya Protocol, noting the need to maintain and strengthen collaboration between the CBD and the ITPGR Secretariats and ensure implementation of both agreements in a mutually supportive manner. The FAO COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE (CGRFA) outlined ongoing CGRFA work on ABS for genetic resources for food and agriculture, drawing attention to the meeting of the CGRFA Technical Working Group on ABS to be held in September 2012, in Svalbard, Norway.

**ORGANIZATIONAL MATTERS:** Delegates approved that Dubravka Stepic (Croatia) continue as the meeting's rapporteur, and adopted the meeting's agenda (UNEP/CBD/ICNP/2/1/Rev.1). On the organization of work, Co-Chair Lowe suggested that development of a programme budget, rules of procedure and a draft agenda for the COP/MOP be addressed following consideration of other agenda items, given that COP/MOP 1 will not be held concurrently with COP 11. She noted the meeting should also consider whether further intersessional work is needed, including a third meeting of ICNP.

Co-Chair Lowe reminded participants that the text of the Protocol should not be reopened and that parties are both users and providers of genetic resources. Co-Chair Fernando Casas (Colombia) emphasized that the Protocol, as one of the few recent multilateral achievements, is an opportunity for benefitting providers, users, relevant institutions, all countries, ILCs and different sectors.

### ELABORATION OF GUIDANCE FOR THE

**FINANCIAL MECHANISM:** Co-Chair Casas introduced the document on elaboration of guidance for the financial mechanism (UNEP/CBD/ICNP/2/3). The EU, NORWAY and UGANDA proposed financial support for projects that: build party capacity to negotiate mutually agreed terms (MAT) and address ILC needs and priorities, with the EU also stressing developing party research capabilities.

On inviting the GEF to support capacity building for parties to develop, implement and enforce domestic ABS measures, MALAYSIA recommended adding capacity building for monitoring at checkpoints to curb biopiracy, and addressing conditions for accessing GEF funds. SENEGAL recommended that COP 11 instruct the GEF to streamline access to funding, underscoring that no African country could access financing for capacity building on ABS.

BRAZIL, supported by NORWAY and SWITZERLAND, said the NPIF should focus on supporting efforts for the Protocol's early ratification and entry into force. In this regard, many delegates highlighted the need for further support of capacity building and awareness raising. JAPAN encouraged parties and the private sector to make additional contributions to the NPIF.

Pointing to the need for long-term financial support for the Protocol's implementation, THAILAND supported considering seriously the NPIF continuation beyond GEF 5. PERU supported recommending to COP 11 extension of the Fund. SWITZERLAND and the EU suggested that it is up to COP 11 to decide whether the Fund should continue.

JORDAN and PERU underscored the need for ensuring the specific allocation of GEF's resources to ABS. On NPIF, JORDAN said countries that already ratified the Protocol should also be eligible for capacity-building support. GUATEMALA, UGANDA, TUNISIA and PERU supported ensuring an expedited process for access to funds for early entry into force. INDIA prioritized funding towards development of implementing measures, noting that measures to address transboundary situations may be premature. Noting that GEF funds are not available to developed countries, the IIFB proposed ensuring that resources are made available to ILCs irrespective of where they are located.

**RESOURCE MOBILIZATION:** On guidance for resource mobilization for implementation of the Protocol (UNEP/CBD/ICNP/2/4), NORWAY, the EU and SWITZERLAND underlined that ABS agreements can contribute to resource mobilization for achievement of all CBD objectives. NORWAY and the EU called for mainstreaming ABS in national biodiversity strategy and action plans. The EU, supported by SWITZERLAND, suggested that COP 11 consider resource mobilization for the Protocol when reviewing implementation of the CBD resource mobilization strategy.

BRAZIL and CHINA highlighted that resources should add to, and not replace existing funds and, with MALAYSIA, INDIA and Senegal, for the AFRICAN GROUP, requested explicit reference to CBD Article 20 (Financial Resources). INDIA stated that the CBD resource mobilization strategy should support implementation of the Protocol, and COP 11 should include this in its review of the implementation of the strategy.

**MULTILATERAL BENEFIT-SHARING MECHANISM:** On the need for and modalities of a global multilateral benefit-sharing mechanism (Article 10) (UNEP/CBD/ICNP/2/7 and Corr.1), Namibia, on behalf of the AFRICAN GROUP, reminded participants that the African Group agreed to the Nagoya Protocol with the understanding that there would be future good-faith efforts to establish the mechanism, providing examples of the transboundary nature of biological resources and traditional knowledge.

MEXICO, PERU and EGYPT supported an expert meeting on the mechanism, with ECUADOR saying a list of questions to be addressed should be clearly defined and ARGENTINA stressing the need for adequate regional representation. PERU said it was open to considering a multilateral mechanism in special circumstances, such as situations with a shared resource or shared traditional knowledge, but underscored the need for clarification on the distribution of benefits.

The REPUBLIC OF KOREA recommended clarifying situations in which it is not possible to grant or obtain PIC, keeping in mind Protocol Articles 4 (Relationships with International Agreements and Instruments) and 11 (Transboundary Cooperation). BRAZIL emphasized that consideration of the need for a mechanism be undertaken by the Protocol parties. SUDAN highlighted that Articles 10 and 11 are not contradictory but have a different scope.

SWITZERLAND prioritized efforts to implement the bilateral approach enshrined in the Protocol, suggesting that an expert meeting be held after its entry into force, following an analysis of domestic ABS requirements to clarify situations not covered by the bilateral approach. The EU proposed focusing first on possible situations, and then on the need, value added and potential risks of addressing these situations through a multilateral mechanism; and cautioned against reopening the temporal and geographical scope of the Protocol.

UGANDA pointed to relevant situations, including: development of genetic resources involving multiple stakeholders over a long period of time; lack of agreement among multiple owners on sharing benefits; and development of genetic resources for food and agriculture not covered by the ITPGR Multilateral System. GUATEMALA supported focusing on strategic capacity building for traditional knowledge holders. JAPAN said a global mechanism could be possible provided that it: embodies a modality acceptable for users; is cost-effective; and is managed so that benefits are directed to biodiversity conservation and sustainable use. Underscoring the efforts of more than nine years to develop the Protocol as a sovereignty-based bilateral mechanism, CANADA cautioned against potentially developing an alternative mechanism.

BURKINA FASO underscored the mechanism could address parties' concerns, in particular on genetic resources acquired before the entry into force of the Nagoya Protocol. For cases where it is not possible to obtain PIC in areas beyond national jurisdiction, NORWAY suggested considering work in other fora such as the UN General Assembly Working Group on marine biodiversity beyond national jurisdiction. CUBA supported a mechanism in particular cases where the Nagoya Protocol is not clear on its scope or the form of benefit-sharing. MALAYSIA called for resolving whether the Nagoya Protocol covers *ex situ* collections and stressed that applying a global mechanism should not marginalize state sovereignty.

### IN THE CORRIDORS

As delegates arrived in Delhi prepared to address their admittedly heavy agenda, they soon acknowledged that, with only five countries having ratified the Protocol to date, the convening of the first COP/MOP could be expected no sooner than COP 12 in 2014. This led many to feel that squeezing all necessary preparations for COP/MOP into their deliberations did not seem the best use of their time, so participants started prioritizing tasks and charting the intersessional way forward after COP 11. For some, this prioritization meant that the anticipated complex discussions on compliance may be postponed to another meeting in 2013, with observers wondering whether these discussions will eventually do justice to traditional knowledge issues – the most innovative aspect of the Protocol vis-à-vis other MEAs and their compliance mechanisms. Others welcomed the increased space for discussions on financial resources, particularly to support ratification and implementation. In the meantime, afternoon discussions on a multilateral benefit-sharing mechanism revealed persistent divergences in vision and understanding, leading some to comment that focus on implementation might not be enough; reaching common understanding still seems to be a challenge.

## ICNP 2 HIGHLIGHTS: TUESDAY, 3 JULY 2012

ICNP 2 delegates met in plenary to discuss the ABS clearing-house, capacity building, awareness-raising and compliance. A lunchtime informal roundtable discussion illustrated progress towards ratification of the Protocol.

### PLENARY

**ABS CLEARING-HOUSE:** On progress in the implementation of the pilot phase and modalities for operation of the ABS clearing-house (UNEP/CBD/ICNP/2/8 and 9), the Secretariat said: relevant staff is hired; a progress report on the pilot phase will be presented at COP 11; and the ABS clearing-house is expected to be operational by the Protocol's entry into force.

Many parties highlighted the relevance of the clearing-house and the importance of capacity building. NORWAY suggested establishment of an ABS clearing-house contact point at the national level and supported developing common formats, policy documents and standards. UGANDA welcomed the provision to offer non-electronic or non-internet based information for countries that request it. JAPAN stressed provision of information on domestic measures is crucial to implement the Protocol's requirements related to benefit-sharing, access and compliance. JORDAN highlighted that Article 14 (ABS Clearing-House and Information-Sharing) distinguishes between mandatory and voluntary submissions. THAILAND said the clearing-house should also facilitate exchange of information between users and providers of genetic resources and associated traditional knowledge.

**Pilot phase:** Many supported that the pilot phase start as early as possible and underscored that it focus on the necessary functions to support compliance with the Protocol. GUATEMALA proposed the pilot phase include case studies to support information exchange and that such information include diverse, flexible formats to support broad participation of communities and traditional knowledge holders. PERU suggested the pilot phase be reviewed by a possible ICNP 3.

**Cooperation:** Many encouraged the Secretariat to consider lessons learned from the Biosafety Clearing-house, and supported promoting cooperation with existing systems, such as those established under WIPO and ITPGR. BRAZIL said that cooperation with other entities should not interfere with the institutionalization and consolidation of the ABS clearing-house. Peru, for GRULAC, suggested considering linkages with other databases at a later stage. GRULAC emphasized that the ABS clearing-house has a unique role, compared to other mechanisms under other MEAs, as the ABS permits become internationally recognized certificates of compliance once in the clearing-house, and cautioned against confusing the clearing-house with a repository of information.

**Informal advisory committee:** The EU, JAPAN, JORDAN and Uganda, for the AFRICAN GROUP, supported the establishment of an informal advisory committee. JAPAN proposed limiting its duration, for further consideration at COP/MOP 1. JORDAN highlighted the need to ensure transparency and equitable geographic representation, and MALAYSIA further proposed including representatives from ILCs. Following several delegates' requests for details, the Secretariat explained that this type of committee is a useful mechanism in the context of the CBD and the Biosafety Clearing-houses, and its establishment is initially envisaged for the pilot phase period, while COP/MOP 1 may decide whether to continue it. She said the committee could include three to five representatives per region and potentially observers; would provide guidance and technical assistance to the CBD Secretariat on issues such as the development of common formats; and would hold one intersessional meeting.

**CAPACITY BUILDING:** On domestic needs and priorities and the proposed elements of the strategic framework for capacity building and development in support of the Protocol's implementation (UNEP/CBD/ICNP/2/10), Ghana, on behalf of the AFRICAN GROUP, emphasized the need for capacity-building at different levels and scales, in relation to law enforcement and in support of ratification, and preferred that the framework be designed as an action plan. BRAZIL, THAILAND, INDIA and CHINA also supported the action plan option to guide countries on implementation and developing their own strategic frameworks. CANADA preferred the strategic framework serve as a reference document and supported the development of a specific action plan and timeframe.

IRAQ pointed to capacity building for regional cooperation and for legislators, as well as to the usefulness of model legislation at the regional level. YEMEN also supported capacity exchanges at the regional level. INDONESIA underlined: communication and awareness for ILCs; taxonomic capacity for monitoring genetic resources, including for ILCs; and capacity for negotiating MAT, developing genetic resources databases and law enforcement. TIMOR LESTE recommended targeting academia.

THE REPUBLIC OF KOREA highlighted integration of existing capacity-building programmes into the strategic framework, broad representation and private participation, as well as feasibility and cost-effectiveness. The EU stated that the framework aims at providing guidance and services to parties in national needs assessment and implementation of the Protocol, and that methodologies and tools developed by existing capacity-building programmes could be standardized. JORDAN and CHINA stressed support for national assessments, with CHINA further underscoring the need for financing to enhance developing country capacity to implement the Protocol. INDIA suggested a sub-regional approach may be more cost-effective for building capacities.

NEW ZEALAND and NAMIBIA called for practical capacity-building activities focused on ratification and implementation. NEW ZEALAND further called for promoting skill transfers. Noting that GEF funding does not support ratification, NAMIBIA urged recommending that COP 11 provide guidance to the GEF. MEXICO and MALI underscored using the ABS clearing-house for capacity-building purposes.

The ITPGR highlighted experience in capacity building in the framework of the Treaty and joint initiatives with the CBD. The IIFB stressed the need for active participation of indigenous peoples and local communities, including women, in capacity-building activities, noting that training and research activities need to include traditional knowledge. The IUCN drew attention to the development of an explanatory guide to the Protocol.

**AWARENESS RAISING:** The Secretariat introduced a revised draft awareness-raising strategy for the Nagoya Protocol (UNEP/CBD/ICNP/2/11), as well as other relevant documents (UNEP/CBD/ICNP/2/INF/2, 6 and 7).

Many delegates supported the revised strategy and highlighted the crucial role of awareness raising for the implementation of the Protocol. ARGENTINA, MALAYSIA and Cote d'Ivoire, for the AFRICAN GROUP, suggested including reference to awareness-raising for ratification. BRAZIL recommended the strategy be flexible and dynamic. Many welcomed the revised strategy as a flexible framework enabling implementation of activities adaptable to national circumstances.

Many developing countries supported that COP 11 invite the GEF to provide financial support to countries for awareness-raising activities. ZAMBIA suggested the strategy incorporate a timeframe and financial implications. HONDURAS proposed the development of material on awareness raising for inclusion in the formal education system. NAMIBIA highlighted the need to fully and effectively involve ILCs and other stakeholders in awareness-raising activities. The IIFB supported the strategy and highlighted the need for full and effective participation in awareness-raising activities, and the use of different tools in local languages, such as short films and radio.

**COMPLIANCE:** Jorge Cabrera Medaglia (Costa Rica), Co-Chair of the expert meeting on compliance, introduced the meeting's report (UNEP/CBD/ICNP/2/12). The EU stated that the compliance mechanism should not deal with compliance by private individuals and entities with national ABS legislation, and noted the Protocol directly addresses ILCs, expressing willingness to explore ILC involvement in the compliance mechanism.

Swaziland, on behalf of the AFRICAN GROUP, recommended that the compliance mechanism: address compliance in a comprehensive and balanced manner; decide by consensus or majority voting as a last resort; receive complaints from non-State actors if all domestic options have been exhausted; and include ILCs as observers; and suggested consideration of establishing an ombudsman. EGYPT and SOUTH AFRICA stressed that the compliance mechanism should impact on the behavior of both providers and users in a way that goes beyond mere compliance with national ABS measures. NIGER supported legally-binding measures. SOUTH AFRICA pointed to the role of Articles 21 (Awareness Raising), 22 (Capacity) and 25 (Financial Mechanism and Resources) in modifying the behavior of all relevant actors, and enhancing monitoring and enforcement capacity.

CHINA said the compliance mechanism should be non-confrontational, facilitative, equitable and take into full consideration special circumstances and needs of developing countries. PERU preferred that a compliance committee: function relatively independently from parties in a transparent manner; decide on the basis of consensus or simple majority; be triggered by countries directly affected by non-compliance cases; and receive information on non-compliance cases from any interested parties, including ILCs.

JAPAN said the mechanism should focus on compliance by parties, whereas users and traditional knowledge holders should not be addressed. NORWAY stressed that: breaches of MAT are to be ascertained by the national courts; compliance with provisions on traditional knowledge should be treated equally with other obligations under the Protocol; and ILCs should have a role in non-compliance instances that directly affect them and should have the same rights to participate in the development of the compliance mechanisms as they had during the negotiations of the Protocol. INDONESIA underscored the role of the compliance mechanism to clarify the content and promote the application of the Protocol provisions, and prevent disputes.

BRAZIL suggested that the compliance mechanism: should, similarly to the ITPGR, emphasize a facilitative approach; allow participation of ILCs as observers; and in cases of repeated non-compliance, lead possibly to the adoption of measures by the COP/MOP, albeit without a mandate to impose sanctions. The REPUBLIC OF KOREA argued that financial penalties, trade consequences, criminal penalties and judicial facilitation measures are inconsistent with Article 4 (Relationships with International Agreements and Instruments). ARGENTINA preferred a facilitative and cooperative mechanism, and called for consistency with international law, including under the World Trade Organization.

GUATEMALA said: the mechanism should be non-confrontational and binding, particularly in cases of non-compliance; providers and users' interests should be balanced; and further consideration of traditional knowledge holders is needed. MALAYSIA suggested a differentiated treatment between lack of funding or capacities for compliance and the persistent refusal to comply with the Protocol. He noted that some of the Protocol's core obligations are "loose" and discretionary and need further guidance from the COP/MOP. CANADA recommended the procedure of the compliance mechanism be similar to mechanisms under other MEAs, suggesting consideration of those under the Biosafety Protocol, the Basel Convention and ITPGR, among others.

The IIFB affirmed the Nagoya Protocol is expected to have innovative procedures and mechanisms to implement its provisions related to indigenous peoples and local communities and traditional knowledge, and supported inclusion of indigenous representatives in a compliance committee.

### **IN THE CORRIDORS**

Many participants were pleasantly surprised to witness a lunchtime informal event showcasing countries' progress towards ratification of the Protocol, and commented that the presentations demonstrated that many CBD parties are already engaged in implementation. Chaired by the CBD Executive Secretary himself, the exchange of experiences clearly illustrated the Protocol's impact on national-level action, with several countries developing new or revising domestic ABS measures, while taking the required steps for ratification. A seasoned observer identified common challenges, such as effectively engaging and "keeping happy" different government agencies and stakeholder groups or developing legislation on traditional knowledge for the first time, as well as more specific ones, such as those encountered by countries with federal systems. At the same time, listening to certain delegates reporting on their efforts to target "core obligations" or develop legislation on "user compliance measures," another participant wondered whether countries' differing interpretations of the Protocol's text will allow for it to operate effectively.

## ICNP 2 HIGHLIGHTS: WEDNESDAY, 4 JULY 2012

ICNP 2 plenary discussed procedural issues and draft recommendations on: guidance for the financial mechanism; resource mobilization; awareness raising; and the ABS clearing-house. Two contact groups addressed a global multilateral benefit-sharing mechanism and compliance.

### PLENARY

**PROCEDURAL ISSUES:** Delegates discussed a proposal submitted by the Co-Chairs to postpone agenda items on the programme budget for the biennium following the Protocol's entry into force, and the COP/MOP rules of procedure and provisional agenda, for consideration at either a potential future meeting of the ICNP or the COP/MOP. Following clarifications that it is up to CBD COP 11 to decide on future meetings of the ICNP, discussion focused on whether ICNP 2 has the mandate to propose a budget to COP 11 regarding intersessional activities before COP 12 or whether it should recommend a list of activities and let the COP address their financial and budgetary implications. It was clarified that the Secretariat will prepare a budget proposal for consideration by COP 11, including the financial implications arising from ICNP recommendations. Cameroon, for the AFRICAN GROUP, expressed concern regarding how priorities identified by ICNP 2 will be reflected into discussions on budget at COP 11, especially in relation to the intersessional period between COP 11 and COP/MOP 1. Co-Chair Casas suggested, and delegates agreed, that ICNP 2 request that the COP 11 background document on the budget include the cost of activities identified in its recommendations.

**GUIDANCE FOR THE FINANCIAL MECHANISM:** Delegates addressed a draft recommendation submitted by the Co-Chairs (UNEP/CBD/ICNP/2/CRP.1). Peru, for GRULAC, said some of their suggestions had not been reflected in the document and suggested including reference to "traditional knowledge associated with genetic resources" following references to genetic resources throughout the text. She also proposed to enable parties to participate in the ABS clearing-house using communication tools other than Internet, such as video and radio; and to "recommend the allocation of funds by the GEF in a separate window specific for ABS activities under the STAR mechanism." CANADA opposed the last suggestion, noting that it is up to each GEF party to determine application of its funds, cautioning against a variation from the current GEF methodology. The EU said the COP 11 should decide on the issue. The recommendation remained in brackets.

BURKINA FASO said the request for GEF funding is not only to support ratification of the Protocol, but also its implementation. GRULAC and Senegal, for the AFRICAN GROUP, reiterated their suggestion of recommending to GEF the simplification of procedures for access to financial resources for ABS.

NAMIBIA suggested bracketing text on deciding that the guidance included in the recommendation supersedes all previous guidance to the financial mechanism related to ABS. He further suggested referring to national "and regional" awareness-raising strategies.

MALAYSIA expressed concern that text on a transitional clause in the eligibility criteria for funding under the financial mechanism could result in more restrictions for access to funding. Following informal consultations, MALAYSIA reported that delegates agreed to delete reference to the "political commitment" of CBD parties towards becoming parties to the Protocol and instead refer to "clear intentions" in the form of written assurances.

On building the capacity of parties to negotiate MAT to promote equity and fairness in the development and implementation of ABS, the EU suggested mentioning the example of assisting in understanding product development business models and other related issues.

Delegates addressed a list of programme priorities for 2014-2018 to be funded by the GEF, for COP 11 consideration. On supporting countries in raising awareness of the importance of genetic resources and traditional knowledge associated with genetic resources, NIGER proposed adding reference to the development and "implementation" of national awareness-raising strategies.

On building party capacity to develop, implement and enforce domestic ABS measures, the EU suggested adding reference to the contribution of ABS to the conservation and sustainable use of biodiversity.

On the establishment of institutional arrangements and administrative systems to provide access to genetic resources, ensure benefit-sharing, support compliance with PIC and MAT and monitor the utilization of genetic resources, THAILAND recommended adding reference to support for the establishment of checkpoints.

Delegates discussed a clause recommending that funds from the Nagoya Protocol Implementation Fund (NPIF) be used to support projects that will "facilitate" early entry into force of the Protocol. BRAZIL, opposed by the EU and Senegal, for the AFRICAN GROUP, preferred that such projects "emphasize" early entry into force. Delegates eventually agreed to refer to projects that will "assist" early entry into force.

Delegates then debated language requesting that GEF expedite access to NPIF funds, with the AFRICAN GROUP, emphasizing the need for simplified criteria. GHANA and the EU suggested recommending that the GEF expedite procedures for access to funds from the NPIF.

SWITZERLAND proposed deleting text calling for the continuation of the NPIF beyond GEF 5 and, following informal consultations, delegates agreed. BRAZIL proposed that the private sector's contributions to the NPIF assist also the Protocol's "early entry into force" in addition to implementation.

**RESOURCE MOBILIZATION:** Delegates addressed a draft recommendation presented by the Co-Chairs (UNEP/CBD/ICNP/2/CRP.2). On language encouraging parties to direct domestic resources in accordance with national circumstances to the Protocol's implementation, the Philippines, for the LMMC, suggested deleting a specific reference to the resources generated through the successful implementation of ABS agreements. The EU and CUBA opposed and the paragraph remained in brackets.

On text encouraging governments and others to establish or enhance funding, BRAZIL suggested encouraging government and others to provide, in accordance with their capabilities, financial resources.

**AWARENESS RAISING:** Delegates addressed and agreed to a draft recommendation presented by the Co-Chairs with no amendments (UNEP/CBD/ICNP/2/CRP.3).

**ABS CLEARING-HOUSE:** Delegates addressed a draft recommendation submitted by the Co-Chairs (UNEP/CBD/ICNP/2/CRP.4). The EU suggested text that stresses the importance of developing the ABS clearing-house as an integral part of the CBD Clearing-house Mechanism. He added that certain recommendations should be specifically addressed to COP 11, including on: deciding that the informal advisory committee hold one meeting and report on the outcomes to a future meeting of the ICNP or COP/MOP 1; inviting parties and organizations to provide financial support for the organization of a meeting of the committee; and requesting the Secretariat to further refine the draft modalities of operation of the clearing-house, taking into account views expressed at ICNP 2 and submitting them at a future meeting of the ICNP or the COP/MOP.

The LMMC proposed language on considering the matter of reaching common understanding on unresolved issues related to the ABS clearing-house, taking into account the preliminary results of the pilot phase. The EU requested clarification on this proposal. Discussions on the item will continue.

## CONTACT GROUPS

### MULTILATERAL BENEFIT-SHARING MECHANISM:

An afternoon contact group addressed a list of questions on Article 10 included in a non-paper. Following discussions on the process forward, including the need for broad stakeholder consultation, participants raised questions related to the: difference between transboundary situations under Article 10 (Global Multilateral Benefit-Sharing Mechanism) and Article 11 (Transboundary Cooperation), and between transboundary genetic resources and transboundary traditional knowledge; possible contribution from the private sector to the mechanism; role of national legislation or bilateral alternatives when it is not possible to obtain PIC; role of capacity building in supporting countries in dealing with situations under Article 10; relevance of existing international process and instruments; need to remain within the scope of the Nagoya Protocol; links between migratory species and transboundary situations; possible implications for the principle of national sovereignty over natural resources; avoidance of disincentives to the implementation of the Protocol; status of transfers of genetic resources and traditional knowledge to third parties; need to ensure that the mechanism be used as a last resort; possible application of the mechanism to pre-CBD, pre-Protocol and post-Protocol collections, as well as to new and continuing uses of pre-CBD collections; status of national legislation regulating access to pre-CBD collections; possible problems and solutions that the mechanism could create for user and provider countries respectively; and need for a global mechanism. The Co-Chairs proposed to prepare a revised non-paper for further discussion in the contact group.

**COMPLIANCE:** In the evening, delegates considered a non-paper on compliance. MEXICO and ECUADOR, opposed by CANADA, supported ILC-proposed text on the operation of the compliance mechanisms paying particular attention to "the role of ILCs." ECUADOR also supported reference to the principle of "non-discrimination" proposed by ILCs. The PHILIPPINES, opposed by the AFRICAN GROUP, proposed reference to the

"*sui generis* mechanisms of ILCs, taking into account their customary laws, norms and practices in accordance with national legislation."

The EU requested bracketing references to Protocol Articles 15-18. The AFRICAN GROUP, opposed by CANADA and the EU, requested reference to the compliance mechanisms being "legally binding." The EU requested bracketing text on public oral hearings of the compliance committee.

MALAYSIA, opposed by the AFRICAN GROUP, supported an ILC proposal on the committee considering information acquired through formal submissions or "other sources." BRAZIL preferred that the Secretariat forward to the committee submissions only from parties or the COP/MOP. COLOMBIA recommended that submissions from ILCs to the committee be "supported by the party in whose national territory the ILC is located."

The EU proposed bracketing reference to the "party that made the submission" participating in the consideration of the submission by the compliance committee. The US, supported by CANADA, suggested allowing parties to participate in the consideration of the submission "at all stages of the process." The PHILIPPINES, opposed by CANADA, recommended that the compliance committee consider "information generated under Articles 15.2 and 16.2" (non-compliance with domestic ABS measures).

COLOMBIA, supported by CHINA, suggested that the committee take into account possible conflicts of interest when seeking expert advice. BRAZIL preferred to notify to the COP/MOP only cases of "repeated," but not "grave," non-compliance, for it to decide the appropriate measures according to international law.

Under measures to promote compliance and address non-compliance, the PHILIPPINES, opposed by ECUADOR, suggested to "require the party concerned to take action and after appropriate procedures, apply sanctions against those in non-compliance with Articles 15.2 and 16.2 within their jurisdictions." CANADA opposed a proposal that the COP/MOP, upon the recommendations of the committee, may recommend suspension of specific rights and privileges. CHINA bracketed a proposal that the COP/MOP publish cases on non-compliance.

The AFRICAN GROUP proposed that the committee establish an ABS ombudsman to provide assistance to developing countries and ILCs to identify instances of non-compliance and make submissions to the committee. A revised non-paper will be prepared.

## IN THE CORRIDORS

Outstanding concerns on financing for preparing for ratification and implementation of the Nagoya Protocol arose again on Wednesday, as delegates slowly worked through draft recommendations to COP 11 on guidance for the financial mechanism. African countries in particular repeatedly stressed their inability to access GEF financing to support capacity building and facilitate the Protocol's early entry into force. One delegate pointed out that the Nagoya Protocol Implementation Fund (NPIF) seems to be the only available financing source until 2015, when GEF-6 is scheduled to start, at least for the huge majority of countries who "missed the train" of GEF-5. Another delegate then highlighted the narrow priorities of NPIF funding, which apparently favor the conclusion of ABS contracts rather than national capacity-building activities towards ratification. "If expedited access to already available funding is not ensured, ratifying the Protocol before 2014 will remain a dream for many developing countries," he commented skeptically.



## ICNP 2 HIGHLIGHTS: THURSDAY, 5 JULY 2012

ICNP 2 plenary met in morning, afternoon and evening sessions to finalize draft recommendations on: the ABS clearing-house; capacity building; future work; and a global multilateral benefit-sharing mechanism. Delegates also agreed to defer to an ICNP 3 or COP/MOP 1 substantive discussion on a programme budget for the biennium following the Protocol's entry into force, and rules of procedures and a draft provisional agenda for COP/MOP 1. The contact group on a global multilateral benefit-sharing mechanism met during lunchtime, and the group on compliance met in the afternoon and evening.

### PLENARY

**ABS CLEARING-HOUSE:** The PHILIPPINES reiterated his proposal to consider reaching common understanding on the unresolved issues on the ABS clearing-house, taking into account the preliminary results of its pilot phase. He clarified that the unresolved issues refer to those included in the annex of the report of the expert meeting on the modalities of operation of the ABS clearing-house (UNEP/CBD/ICNP/1/2), including: the need for common understanding on notification of permits or their equivalent; updating of internationally recognized certificates of compliance; third party transfers; the need for a common understanding on the extent to which the Protocol's intent is to track access, use and/or transfers of genetic resources; identification of subject matter or genetic resource covered by the certificate; and confidential information. CANADA preferred referring to points that may require further consideration. Following informal consultations, delegates agreed to request COP/MOP 1 to take into account the points that may require further consideration for the ABS clearing-house, and suggest ways to reach common understanding on these points, informed by lessons from the pilot phase. They also agreed to include a footnote elaborating that these points refer to paragraph 7 of the annex in the expert meeting report.

Delegates discussed preambular language proposed by the EU recognizing the importance of developing the Nagoya Protocol ABS clearing-house as an integral part of the CBD Clearing-house Mechanism. BRAZIL, PERU and Uganda, for the AFRICAN GROUP, favored including language on the mechanism serving as a means for sharing information related to ABS and specific reference to Article 14 (ABS Clearing-House and Information-Sharing). CANADA, supported by INDIA, suggested a chapeau was not needed. Following informal

consultations, delegates agreed to stress the importance of developing the ABS clearing-house as an integral part of the operation of the Nagoya Protocol and the CBD Clearing-house Mechanism, serving as a means for sharing information related to ABS, in accordance with Article 14 of the Protocol and without prejudice to its operational independence and efficacy. BRAZIL suggested that the Secretariat consult parties when it explores opportunities for collaboration with partners and other data providers in the development of the ABS clearing-house once progress is made in the implementation of the pilot phase.

**CAPACITY BUILDING:** Delegates addressed a draft recommendation submitted by the Co-Chairs (UNEP/CBD/ICNP/2/CRP.5). The EU suggested that a request to the Secretariat to organize an expert meeting to develop a draft strategic framework be performed, taking into account not only the synthesis of views and information on domestic needs and priorities (UNEP/CBD/ICNP/2/10), but also the wealth of experiences and lessons learned from existing ABS-related capacity-building and development initiatives and ABS-related bilateral development cooperation. He also suggested that this request and an invitation to parties to provide financial support for the organization of the expert meeting be addressed to COP 11.

On text recognizing the wealth of experiences and lessons learned, and instruments and methodologies that have been developed under various ABS capacity development initiatives, the EU suggested adding reference to the ABS Capacity Development Initiative that has expanded from Africa to other regions. He also made proposals regarding an annexed table containing an overview of measures to build or develop capacity to effectively implement the Protocol based on the needs and priorities of parties and ILCs, including: adding a reference to research and taxonomic studies related to conservation of biodiversity, sustainable use of its components and bioprospecting; and referring to business and researchers as specific stakeholders.

**FUTURE WORK:** Delegates addressed a draft recommendation submitted by the Co-Chairs (UNEP/CBD/ICNP/2/CRP.6). The Philippines, for the LMMC, proposed inviting CBD parties to take the necessary administrative, policy and legal steps at the earliest possible time before the entry into force of the Protocol or at the time of the ratification, including the appointment or designation of checkpoints and of competent national authorities that will pursue the implementation of specific obligations under the Protocol, including the ABS

clearing-house. He also proposed requesting the Secretariat to start preparatory work on a proposal for the procedure and timeframe for the handling and recognition of the internationally recognized certificates and the establishment of unique identifiers, including their recognition upon presentation at specified checkpoints, for COP/MOP 1 consideration. Following concerns expressed by the EU and Brazil, PERU suggested, and delegates eventually agreed, to ask the Secretariat to request information from parties on outstanding issues they believe should be addressed, for further discussion at ICNP 3 or COP/MOP 1.

The EU suggested preparing a draft agenda for ICNP 3 to be considered by COP 11. Stressing the need for an additional ICNP meeting, GHANA suggested preparing a table indicating progress achieved in each activity under the work programme as well as outstanding tasks. Following clarification from the Secretariat, delegates agreed to add a paragraph requesting the Executive Secretary to make available for the information of COP 11 an overview of the status of the issues considered by ICNP as set out in its work plan in Annex 2 of Decision X/1 (ABS).

#### **MULTILATERAL BENEFIT-SHARING MECHANISM:**

In the evening, delegates considered and agreed to a draft recommendation prepared by the contact group (UNEP/CBD/ICNP/2/CRP.7) with no amendments.

#### **CONTACT GROUPS**

##### **MULTILATERAL BENEFIT-SHARING MECHANISM:**

At lunchtime, delegates considered a revised non-paper outlining the process for continuing consideration of Article 10 (Global Multilateral Benefit-Sharing Mechanism) and a revised list of possible questions to facilitate consultation and discussions. Delegates debated at length the process, agreeing that: targeted views be sought not only from governments, organizations and ILCs but also from “all interested stakeholders”; and these views be based not only on the indicative list of questions, but also on “other perspectives on the matter.”

Following exchanges on the revised list of questions, delegates eventually agreed to annex to a draft recommendation to COP 11 two lists of questions, differentiating between the previous list of questions included in the initial version of the non-paper and additional questions resulting from their exchanges in the contact group on Wednesday.

**COMPLIANCE:** In the afternoon, delegates considered a revised non-paper in order to streamline text for consideration by a possible ICNP 3 or COP/MOP 1. Delegates discussed, among other issues: whether to keep references to: “voluntary,” “positive” and “non-judicial” compliance procedures; common but differentiated responsibilities; and paying particular attention to the “needs,” rather than the “roles,” of ILCs.

They agreed that a compliance committee should comprise 15 members, three from each UN region, nominated by parties and endorsed by the regional groups. Delegates then addressed the question of ILC participation in the compliance committee on the basis of two options referring to the participation of ILC representatives as observers or the participation of one ILC representative as a full member. Some delegates raised the concern that ILC observers would create an imbalance in the committee.

Many participants said it should be left to the parties to nominate ILC representatives as their proposed members of the committee. Others highlighted the low probability of such nominations to materialize, stressing that traditional knowledge is an integral part of, and ILCs are awarded special rights by,

the Protocol. Emphasizing the unique status of ILCs under the Protocol, a developing country suggested that the compliance committee consult with relevant ILC bodies as identified by ILCs in matters related to associated traditional knowledge and genetic resources over which ILCs have rights to grant access, as an alternative solution to ILC representation among the committee members. Delegates debated whether this proposal should be considered under the functions of the committee or under information and consultation, eventually deciding not to include it.

Delegates debated, without reaching agreement, whether compliance committee members should be party representatives or serve in their personal capacity. Delegates then discussed whether the compliance committee should meet “as necessary” or at least once per intersessional period, and whether its meetings should be subject to funding availability. One developed country noted that the modalities of the Biosafety Protocol compliance committee should not necessarily be replicated in the context of the Nagoya Protocol. Delegates agreed that the committee develops its own rules of procedures, subject to the COP/MOP approval.

Delegates could not agree whether the compliance committee should reach agreement on matters of substance only by consensus, or also by majority voting as a last resort. A developed country suggested that in case the committee decide by consensus, if a committee member has the nationality or was nominated by the party concerned, the member should be excluded from the formation of consensus. Delegates were then unable to find agreement on whether certain compliance committee meetings should be public.

#### **IN THE CORRIDORS**

Hours before the close of the meeting, plenary proceeded swiftly with finalizing recommendations on the ABS clearing-house, capacity building and the multilateral benefit-sharing mechanism, setting the ground for further work in preparation for the Protocol’s implementation and entry into force. Meanwhile, the pace of the contact group on compliance was not equally rapid. “At least we have agreed to set up a compliance committee; that’s a basic first step,” one participant commented optimistically. Others, however, voiced concerns on the fundamental issue of participation of indigenous and local communities, both in the development and in the operation of the compliance mechanism. “The Protocol is also about traditional knowledge, it affirms community rights,” said one delegate, highlighting the need for including autonomous indigenous voices in the future compliance committee. Lack of funding and visa issues, though, have apparently affected community participation in the Delhi meeting. “I didn’t hear any indigenous voices in the compliance discussions,” an observer noticed, expressing hope that the CBD will retain its good record of inclusiveness and participation.

**ENB SUMMARY AND ANALYSIS:** The *Earth Negotiations Bulletin* summary and analysis of ICNP 2 will be available on Monday, 9 July 2012 online at: <http://www.iisd.ca/biodiv/icnp2/>

## SUMMARY OF THE SECOND MEETING OF THE INTERGOVERNMENTAL COMMITTEE FOR THE NAGOYA PROTOCOL ON ACCESS AND BENEFIT-SHARING TO THE CONVENTION ON BIOLOGICAL DIVERSITY: 2-6 JULY 2012

The second meeting of the Open-ended *Ad Hoc* Intergovernmental Committee for the Nagoya Protocol (ICNP) on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) to the Convention on Biological Diversity (CBD) was held from 2-6 July 2012, in New Delhi, India. It was preceded by a capacity-building workshop on ABS, co-organized by the Secretariats of the CBD and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR), held from 30 June - 1 July 2012.

The meeting adopted eight recommendations on: modalities of operation of the ABS clearing-house; measures to assist in capacity building, capacity development and strengthening of human and institutional capacities in developing countries; measures to raise awareness of the importance of genetic resources and associated traditional knowledge; cooperative procedures and institutional mechanisms to promote compliance with the Protocol and address cases of non-compliance; the need for, and modalities of, a global multilateral benefit-sharing mechanism (Article 10); guidance for the financial mechanism; guidance for resource mobilization for the Protocol's implementation; and future work in preparation for the first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP/MOP 1).

The meeting served its objective to prepare for implementation and entry into force by identifying questions that demand clarification at the international level. Although entry into force is expected to take at least another two years, many countries showcased impressive legislative and policy developments, highlighting that the Protocol is already making a difference at the domestic level. The need for consistent funding to support these initiatives and for clarifying the role of the Global Environment Facility (GEF) in this regard was an issue that cut across the agenda. At the same time, it became clear that

some Protocol provisions remain obscure and additional efforts are required to reach common understanding. Controversies regarding the ABS clearing-house and its role regarding the internationally recognized certificate of compliance illustrated this reality. Similarly, deliberations on compliance and the multilateral benefit-sharing mechanism identified a series of issues and unanswered questions, but also set the groundwork for further discussions.

### A BRIEF HISTORY OF THE ABS PROTOCOL

The Nagoya Protocol on ABS was adopted at the tenth meeting of the Conference of the Parties (COP) to the CBD on 29 October 2010, in Nagoya, Japan. The objective of the Protocol 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 the conservation of biodiversity and the sustainable use of its components. The Protocol has 92

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This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Catherine Benson, Elisa Morgera, Ph.D., Eugenia Recio and Elsa Tsioumani. The Digital Editor is Francis Dejon. The Editor is Pamela S. Chasek, Ph.D. <pam@iisd.org>. The Director of IISD Reporting Services is Langston James "Kimo" Goree VI <kimo@iisd.org>. The Sustaining Donors of the *Bulletin* are the European Commission (DG-ENV), the Government of the United States of America (through the Department of State Bureau of Oceans and International Environmental and Scientific Affairs), the Government of Canada (through CIDA), the Danish Ministry of Foreign Affairs, the German Federal Ministry for Economic Cooperation and Development (BMZ), the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU), and the Government of Australia. General Support for the *Bulletin* during 2012 is provided by the Norwegian Ministry of Foreign Affairs, the Ministry of Environment of Sweden, the New Zealand Ministry of Foreign Affairs and Trade, SWAN International, the Swiss Federal Office for the Environment (FOEN), the Finnish Ministry for Foreign Affairs, the Japanese Ministry of Environment (through the Institute for Global Environmental Strategies - IGES), the Japanese Ministry of Economy, Trade and Industry (through the Global Industrial and Social Progress Research Institute - GISPRI), and the United Nations Environment Programme (UNEP). Funding for translation of the *Bulletin* into French has been provided by the Government of France, the Belgium Walloon Region, the Province of Québec, and the International Organization of the Francophone (OIF and IEFP). The opinions expressed in the *Bulletin* are those of the authors and do not necessarily reflect the views of IISD or other donors. Excerpts from the *Bulletin* may be used in non-commercial publications with appropriate academic citation. For information on the *Bulletin*, including requests to provide reporting services, contact the Director of IISD Reporting Services at <kimo@iisd.org>, +1-646-536-7556 or 300 East 56th St., 11D, New York, NY 10022, USA.

signatures and 5 ratifications to date. It will enter into force 90 days after the deposit of the 50th instrument of ratification.

The Convention's work on ABS was initiated at COP 4 (May 1998, Bratislava, Slovakia) when parties established a regionally-balanced expert panel on ABS. The expert panel held two meetings (October 1999, San José, Costa Rica; and March 2001, Montreal, Canada) and developed a set of recommendations, including on prior informed consent (PIC), mutually agreed terms (MAT), approaches for stakeholder involvement and options to address ABS within the CBD framework. COP 5 (May 2000, Nairobi, Kenya) established the Working Group on ABS to develop guidelines and other approaches on: PIC and MAT; participation of stakeholders; benefit-sharing mechanisms; and the preservation of traditional knowledge.

**ABS 1:** At its first meeting (October 2001, Bonn, Germany), the Working Group on ABS developed the draft Bonn Guidelines on ABS, identified elements for a capacity-building action plan, and considered the role of intellectual property rights (IPRs) in the implementation of ABS arrangements.

**COP 6:** At its sixth meeting (April 2002, The Hague, the Netherlands), the COP adopted the Bonn Guidelines on ABS and also considered the role of IPRs in the implementation of ABS arrangements, and the relationship with the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization.

**WSSD:** In the Johannesburg Plan of Implementation, the UN World Summit on Sustainable Development (WSSD) (September 2002, Johannesburg, South Africa) called for negotiating, within the CBD framework, an international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources.

**ABS 2:** At its second meeting (December 2003, Montreal, Canada), the ABS Working Group debated the process, nature, scope, elements and modalities of an international ABS regime, and also considered measures to ensure compliance with PIC and MAT, and capacity building.

**COP 7:** At its seventh meeting (February 2004, Kuala Lumpur, Malaysia), the COP adopted the Action Plan on capacity building for ABS, mandated the ABS Working Group to elaborate and negotiate an international ABS regime and set out the terms of reference for the negotiations.

**ABS 3 and 4:** At its third and fourth meetings (February 2005, Bangkok, Thailand, and January 2006, Granada, Spain), the ABS Working Group produced draft text compilations to serve as the basis for future negotiations. It also considered additional approaches to complement the Bonn Guidelines on ABS, including an international certificate of origin/source/legal provenance.

**COP 8:** At its eighth meeting (March 2006, Curitiba, Brazil), the COP instructed the ABS Working Group to complete its work with regard to the international ABS regime at the earliest possible time before COP 10 in 2010. The COP also requested the Working Group on Article 8(j) to contribute to the mandate of the ABS Working Group on issues relevant to traditional knowledge.

**ABS 5 and 6:** At its fifth and sixth meetings (October 2007, Montreal, Canada, and January 2008, Geneva, Switzerland), the ABS Working Group focused on the main components of the international regime on ABS, including fair and equitable sharing of benefits, access to genetic resources, compliance, traditional knowledge and genetic resources, and capacity building.

**COP 9:** At its ninth meeting (May 2008, Bonn, Germany), the COP adopted a roadmap for the negotiation of the international regime, ensuring that the ABS Working Group will meet three times before the 2010 deadline for completion of negotiations. The COP also established three expert groups, and instructed the ABS Working Group to finalize the international regime and to submit an instrument/instruments for consideration and adoption by COP 10. The three expert groups (concepts, terms, working definitions and sectoral approaches; compliance; and traditional knowledge associated with genetic resources) each met once between December 2008 and June 2009.

**2009-2010 NEGOTIATIONS:** The ABS Working Group met four times between COPs 9 and 10 (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 consolidated 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 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 compromise, including scope and pathogens, derivatives and the concept of utilization of genetic resources, and mechanisms to support compliance. An additional meeting of the ING convened in September 2010, in Montreal, but several key issues remained outstanding.

**COP 10:** Immediately prior and during COP 10, held from 18-29 October 2010, in Nagoya, Japan, the ING continued negotiations. Towards the end of the meeting, informal ministerial consultations were held to discuss a compromise proposal put forward by the Japanese COP Presidency, where agreement was reached on a package relating to the remaining outstanding issues, including: the concept of utilization and derivatives, and related benefit-sharing; the provision on scope; non-arbitrary access procedures; traditional knowledge-related issues, including a provision on publicly available traditional knowledge 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 traditional knowledge that occur in transboundary situations or for which it is not possible to grant or obtain PIC; and compliance-related provisions on checkpoints, information requirements and the internationally recognized certificate of compliance. The COP adopted the clean text of the Protocol as part of a "package"

including also the new CBD Strategic Plan 2011-2020 and a decision on activities and indicators for the implementation of the Strategy for Resource Mobilization. It also established the ICNP to undertake the preparations necessary for the first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP/MOP).

**ICNP 1:** At its first meeting, held from 5-10 June 2011, in Montreal, Canada, the Committee adopted four recommendations initiating work on: the modalities of operation of the ABS clearing-house; measures to assist in capacity building, capacity development and strengthening of human and institutional capacities in developing countries; measures to raise awareness of the importance of genetic resources and associated traditional knowledge; and cooperative procedures and institutional mechanisms to promote compliance with the Protocol and address cases of non-compliance.

## ICNP 2 REPORT

On Monday, Convention on Biological Diversity (CBD) Executive Secretary Braulio Ferreira de Souza Dias outlined his priorities, including pushing for early ratification and entry into force of the Nagoya Protocol and enhancing support for implementation of the CBD and its protocols. He said the first session of the Conference of the Parties serving as the Meeting of the Parties (COP/MOP 1) is expected to be held in conjunction with the twelfth meeting of the Conference of the Parties (COP 12) to the CBD in 2014, adding that the COP could serve as a forum to share experiences on implementation. He underlined the need to integrate access and benefit-sharing into CBD work on protected areas, and forest and marine biodiversity. He also called for supporting the capacity and priorities of indigenous and local communities (ILCs) to ensure their involvement in implementation.

M.F. Farooqui (India) emphasized that ABS is a tool to enhance global and local benefits from biodiversity, and that the adoption of the Nagoya Protocol contributed to maintaining the credibility of environmental multilateralism. T. Chatterjee, Secretary of the Ministry of Environment and Forests of India, underscored India's learning-by-doing experience with domestic ABS arrangements since 2002, with achieved community benefits, and the need to chart a roadmap beyond COP 11 towards the first COP/MOP of the Protocol.

ICNP 2 Co-Chair Janet Lowe (New Zealand) stressed the need to maintain momentum to ensure entry into force in time to hold the first COP/MOP in conjunction with COP 12.

Peru, on behalf of the Latin America and Caribbean Group (GRULAC), expressed the region's commitment to early ratification and stressed resource mobilization to ensure ratification and implementation.

Cameroon, for the African Group, called for defining capacity-building and resource mobilization priorities. Ukraine, for Central and Eastern Europe (CEE), highlighted capacity building for developing countries, in particular economies in transition, as a key element to ensure quick entry into force.

Japan highlighted its activities to assist with implementation, including its US\$12.1 million contribution to the Nagoya Protocol Implementation Fund (NPIF).

India, for Asia-Pacific, suggested an additional ICNP meeting to complete tasks before COP/MOP 1. The Philippines, for the Like-Minded Megadiverse Countries (LMMC) prioritized, *inter alia*: outstanding issues on the ABS clearing-house; compliance, including consideration of the triggers and composition of a compliance committee; the global multilateral benefit-sharing mechanism; and provision of specific guidance on the needs for the Protocol's implementation in the context of the GEF's sixth replenishment.

The International Indigenous Forum on Biodiversity (IIFB) noted the Nagoya Protocol's unique feature in directly addressing indigenous peoples' and local communities' resources, knowledge and cultures, and stressed that implementation must ensure their full and effective participation at all levels.

The ITPGR underscored the close relationship between the Treaty and the Nagoya Protocol, noting the need to maintain and strengthen collaboration between the ITPGR and the CBD and their Secretariats and ensure implementation of both agreements in a mutually supportive manner. The FAO Commission on Genetic Resources for Food and Agriculture (CGRFA) outlined ongoing CGRFA work on ABS for genetic resources for food and agriculture, drawing attention to the meeting of the CGRFA Technical Working Group on ABS to be held in September 2012, in Svalbard, Norway.

**ORGANIZATIONAL MATTERS:** The ICNP Bureau, elected at ICNP 1, includes: David Hafashimana (Uganda) and Samuel Dieme (Senegal) for Africa; M.F. Farooqui (India) and Leina Al-Awadhi (Kuwait) for Asia-Pacific; Monica Rosell (Peru) and Anita James (Saint Lucia) for GRULAC; Dubravka Stepic (Croatia) and Sergiy Gubar (Ukraine) for CEE; and Ben Phillips (Australia) and Ines Verleye (Belgium) for the Western Europe and Others Group. On Monday, delegates approved that Dubravka Stepic (Croatia) continue as the meeting's rapporteur, and adopted the meeting's agenda (UNEP/CBD/ICNP/2/1/Rev.1). On the organization of work, Co-Chair Lowe suggested that development of a programme budget, rules of procedure and a draft agenda for the COP/MOP be addressed following consideration of other agenda items, given that COP/MOP 1 will not be held concurrently with COP 11. She noted the meeting should also consider whether further intersessional work is needed, including a third meeting of ICNP. Co-Chair Fernando Casas (Colombia) emphasized that the Protocol, as one of the few recent multilateral achievements, is an opportunity to benefit providers, users, relevant institutions, all countries, ILCs and different sectors.

This report summarizes discussions on each of the items on the agenda of the meeting.

## GUIDANCE FOR THE FINANCIAL MECHANISM

Delegates first discussed this issue (UNEP/CBD/ICNP/2/2) on Monday and considered a draft recommendation (UNEP/CBD/ICNP/2/CRP.1) on Wednesday. On Friday, they adopted the final

recommendation. The main issues addressed included eligibility and the provision of guidance for GEF funding for ABS, access to financing and the NPIF.

**ELIGIBLE ACTIVITIES AND GUIDANCE FOR GEF FUNDING:** The European Union (EU), Norway and Uganda proposed financial support for projects that: build party capacity to negotiate mutually agreed terms (MAT) and address ILC needs and priorities, with the EU also stressing developing party research capabilities. On inviting the GEF to support capacity building for parties to develop, implement and enforce domestic ABS measures, Malaysia and Thailand recommended adding capacity building for monitoring at checkpoints. On building the capacity of parties to negotiate MAT to promote equity and fairness in the development and implementation of ABS, the EU suggested mentioning the example of assisting in understanding product development business models and other related issues.

Delegates addressed a list of programme priorities for 2014-2018 to be funded by the GEF, for COP 11 consideration. On supporting countries in raising awareness of the importance of genetic resources and traditional knowledge associated with genetic resources, Niger proposed adding reference to the development and “implementation” of national awareness-raising strategies.

Malaysia expressed concern that text on a transitional clause in the eligibility criteria for funding under the financial mechanism of the Protocol could result in more restrictions for access to funding. Following informal consultations, Malaysia reported that delegates agreed to delete reference to the “political commitment” of CBD parties towards becoming parties to the Protocol and instead refer to “clear intentions” in the form of written assurances.

On Wednesday, delegates addressed a draft recommendation that included guidance to the GEF from the COP/MOP. Namibia suggested bracketing text stating that the guidance included in the recommendation supersedes all previous guidance to the financial mechanism related to ABS until his delegation could carefully assess the consequences of retiring previous GEF guidance. The text remained in brackets.

In the closing plenary, an ILC participant addressed a request for financing parties’ capacity building projects to develop, implement and enforce domestic ABS measures, to implement parties’ obligations under the Protocol as users and providers of genetic resources and associated traditional knowledge. He expressed concern, supported by the EU and Norway, that reference to parties “as users and providers of genetic resources and associated traditional knowledge associated,” could provide room for misinterpretation. He and the EU proposed, and delegates agreed, to delete this reference.

**ACCESS TO FINANCING:** Malaysia recommended addressing conditions for accessing GEF funds. GRULAC and Senegal, for the African Group, suggested recommending to the GEF the simplification of procedures for access to financial resources for ABS. The African Group recommended that COP 11 instruct the GEF to streamline access to funding, underscoring that no African country could access financing for capacity building on ABS. Guatemala, Uganda, Tunisia and Peru

supported ensuring an expedited process for access to funds for early entry into force. Noting that GEF funds are not available to developed countries, the IIFB proposed ensuring that resources are made available to ILCs irrespective of their location.

Jordan and Peru underscored the need for ensuring the specific allocation of GEF resources to ABS. On Wednesday, addressing the draft recommendation, GRULAC noted that some of their proposals had not been reflected in the document and suggested to recommend the allocation of funds by the GEF in a separate window specific for ABS activities under the System for Transparent Allocation of Resources (STAR) mechanism. Canada opposed the last suggestion, noting that it is up to each GEF party to determine application of its funds, cautioning against a variation from the current GEF methodology. The EU said COP 11 should decide on the issue. The recommendation remained in brackets.

In the closing plenary, Guatemala requested to reflect in the meeting’s report that GRULAC’s interventions on a specific window for financing were aimed at activities specifically related to the “Nagoya Protocol,” and not to “ABS.”

**NPIF:** Brazil, supported by Norway and Switzerland, said the NPIF should focus on supporting efforts for the Protocol’s early ratification and entry into force. Brazil, opposed by the EU and Senegal, for the African Group, preferred that such projects “emphasize” early entry into force. Delegates eventually agreed to refer to projects that will “assist” early entry into force.

Delegates then debated language requesting that the GEF expedite access to NPIF funds, with the African Group emphasizing the need for simplified criteria. Ghana and the EU suggested recommending that the GEF expedite procedures for access to funds from the NPIF. Japan encouraged parties and the private sector to make additional contributions to the NPIF. Brazil proposed that the private sector’s contributions to the NPIF assist also the Protocol’s “early entry into force” in addition to implementation.

Pointing to the need for long-term financial support for the Protocol’s implementation, Thailand supported seriously considering the NPIF’s continuation beyond GEF 5. Peru supported recommending extension of the NPIF to COP 11. Switzerland and the EU suggested that it is up to COP 11 to decide whether the Fund should continue. Addressing the draft recommendation, Switzerland proposed deleting text calling for the continuation of the NPIF beyond GEF 5 and, following informal consultations, delegates agreed.

In the closing plenary, Peru noted she was following a parallel session when the call for NPIF continuation was deleted, and requested clarification from the Secretariat on the implications of the lack of any reference to the continuation of the NPIF beyond GEF-5. Co-Chair Casas said the Secretariat was not in a position to provide interpretation on the implications of the text in the recommendation. Peru requested that the meeting’s report reflect her remark about lack of clarity on the continuation of the NPIF, adding that the matter would be reopened at COP 11. Ghana, for the African Group, Thailand, Saint Lucia, Ecuador and Cuba also requested to include in the report their concern about this issue. Ghana explained that parties agreed to delete the reference in

the understanding that, by inviting the GEF to provide to COP 11 a report on the progress made under the NPIF to support the Protocol's ratification and implementation, parties will have the opportunity to raise the issue again.

**Final Outcome:** In the recommendation (UNEP/CBD/ICNP/2/L.2), the ICNP recommends that COP/MOP 1 adopt a decision on the basis of Annex I and COP 11 adopt a decision on the basis of Annex II to the recommendation. The ICNP also invites the GEF to provide to COP 11 a report on progress under the NPIF to support the ratification and implementation of the Protocol.

Annex I contains draft recommendations addressed to COP/MOP 1. Under operational arrangements between the Convention and the GEF Council regarding the Nagoya Protocol, the ICNP recommends that the COP/MOP:

- take note of the memorandum of understanding between the COP and the GEF Council adopted by decision III/8 and confirm that the operational arrangements outlined shall apply, *mutatis mutandis*, to the Protocol;
- recommend that the COP invite the GEF Council to submit the ABS chapter of its report to the COP/MOP; and
- decide to: conduct periodic reviews of the effectiveness of the financial mechanism on the implementation of the Nagoya Protocol; and undertake, in time for the GEF Trust Fund's replenishments, an assessment of funds to assist developing parties in fulfilling their commitments under the Nagoya Protocol, for consideration by the COP.

A section on guidance for the financial mechanism includes further recommendations. On policy and strategy, the ICNP recommends that the COP/MOP take note of the consolidated guidance to the financial mechanism in decision X/24, and invite the COP to review and revise it, taking into account new developments such as the adoption of the Nagoya Protocol. On programme priorities, the ICNP recommends that the COP/MOP recommend that the COP consider integrating the following guidance on programme priorities with respect to ABS in its overall guidance to the financial mechanism.

The COP is recommended to request the GEF to finance projects that will assist in building the capacity of parties to:

- develop, implement and enforce domestic legislative, administrative or policy measures on ABS, including through: identification of actors and legal and institutional expertise for the Protocol's implementation; taking stock of domestic measures relevant to ABS in light of the obligations of the Nagoya Protocol; development and/or amendment of ABS measures to implement their obligations under the Nagoya Protocol; establishment of ways to address transboundary issues; and establishment of institutional arrangements and administrative systems to provide access to genetic resources, ensure benefit-sharing, support compliance with PIC and MAT, and monitor the utilization of genetic resources and associated traditional knowledge, including support for the establishment of checkpoints;
- negotiate MAT to promote equity and fairness in negotiations in the ABS agreements, including through enhanced

understanding of business models and intellectual property rights; and

- develop their endogenous research capabilities to add value to their own genetic resources and associated traditional knowledge through, *inter alia*, technology transfer, bioprospecting and associated research and taxonomic studies, and the development and use of valuation methods.

It is further recommended that the COP request the GEF to finance projects that will assist in:

- addressing the capacity needs and priorities of ILCs and relevant stakeholders, in particular, projects that would encourage their participation, and assist in building their capacity related to genetic resources and associated traditional knowledge, such as through the development of community protocols, model contractual clauses and minimum requirements for MAT to secure fair and equitable sharing of benefits;
- enabling parties to participate in the ABS clearing-house and use the best available communication tools and Internet-based systems, such as audio and video tools for ABS activities;
- supporting parties in raising awareness of genetic resources and associated traditional knowledge, and related ABS issues; and
- supporting the implementation of the strategic framework for capacity building and development for the Protocol's implementation.

A recommendation that the COP decide that the above guidance supersedes all previous guidance to the financial mechanism related to ABS remains in brackets.

It is further recommended that the COP recommend the allocation of funds by the GEF in a separate window specific to ABS activities under the STAR, which also remains in brackets.

On eligibility criteria, the ICNP recommends that the COP/MOP:

- decide that all developing countries, which are parties to the Nagoya Protocol, are eligible to receive funding from the GEF;
- adopt the following transitional clause: "Developing countries, in particular the least developed countries and small island developing states among them, and countries with economies in transition that are parties to the Convention and provide a clear intention to become parties to the Protocol shall be eligible for funding by the GEF for up to four years after the Protocol has entered into force for the development of national measures and institutional capabilities to enable them to become a party. Evidence of such intention shall take the form of a written assurance to the Secretariat that the country intends to become a party to the Nagoya Protocol on completion of the activities to be funded."

Annex II contains draft recommendations for consideration by COP 11. On the programme priorities for inclusion in the four-year framework for programme priorities for the period 2014-2018, the ICNP recommends that the COP invite GEF-6 to support:

- building parties' capacities to develop, implement and enforce domestic measures on ABS, including through:

identification of actors and legal and institutional expertise for the Protocol's implementation; taking stock of domestic measures in light of the Protocol's obligations; development or amendment of ABS measures to implement their Protocol's obligations; establishment of ways to address transboundary issues; and establishment of arrangements to provide access to genetic resources, ensure benefit-sharing, support compliance with PIC and MAT, and monitor genetic resources and associated traditional knowledge utilization;

- building parties' capacities to negotiate MAT, including through enhanced understanding of business models and intellectual property rights;
- building parties' capacities to develop their endogenous research capabilities to add value to their own genetic resources and associated traditional knowledge;
- addressing ILCs and relevant stakeholders' capacity needs and priorities, in particular: encouraging their participation; assisting their capacity building on genetic resources and associated traditional knowledge, such as through the development of community protocols, model contractual clauses and minimum requirements for MAT; and support regional and subregional capacity-building workshops;
- enabling parties to participate in the ABS clearing-house;
- supporting parties in raising awareness of ABS; and
- supporting the implementation of the capacity-building strategic framework.

On the NPIF, the ICNP recommends that the COP: welcome the establishment of the NPIF; recommend that the Fund support projects to assist the early entry into force of the Protocol and create enabling conditions at the national and regional levels for its implementation; recommend to the GEF to expedite procedures for access to funds from the NPIF; and invite donors and the private sector to contribute to the NPIF.

On support for activities prior to the entry into force of the Nagoya Protocol, the ICNP recommends that the COP reiterate its invitation to the GEF to provide financial support to parties to assist with the Protocol's early ratification and implementation.

### RESOURCE MOBILIZATION

Delegates first discussed the issue (UNEP/CBD/ ICNP/2/4) on Monday and considered a draft recommendation (UNEP/CBD/ICNP/2/CRP.2) on Wednesday. On Friday they adopted the final recommendation. The main issues addressed included how to integrate resource mobilization for the implementation of the Protocol in the context of the CBD Strategy for Resource Mobilization and at the national level.

Brazil and China highlighted that resources should add to and not replace existing funds and, with Malaysia, India and Senegal, for the African Group, requested explicit reference to CBD Article 20 (Financial Resources). Norway and the EU called for mainstreaming ABS in national biodiversity strategy and action plans (NBSAPs).

On guidance for resource mobilization for implementation of the Protocol, Norway, the EU and Switzerland underlined that ABS agreements can contribute to resource mobilization for achievement of all CBD objectives. On language encouraging parties to direct domestic resources in accordance with national

circumstances to the Protocol's implementation, the LMMC suggested deleting a specific reference to the resources generated through the successful implementation of ABS agreements. The EU and Cuba opposed and the paragraph remained in brackets. In the closing plenary, Co-Chair Casas consulted parties on the possibility to remove brackets around this reference. The LMMC reiterated its opposition to the text, cautioning against the risk of undermining developed countries' obligations to provide financial resources and technology transfer to developing countries.

**Final Outcome:** In the recommendation (UNEP/CBD/ ICNP/2/L.3), the ICNP, recalling Protocol Article 25 (Financial Mechanism and Resources), CBD Article 20 (Financial Resources) and the Strategy for Resource Mobilization; and recognizing that the mobilization of resources is essential to ensure the Protocol's implementation:

- encourages parties to: consider resource mobilization for the Protocol in the implementation of the Strategy for Resource Mobilization; and pay particular attention to integrating resource mobilization for the implementation of the Protocol into NBSAPs; and
  - requests the Secretariat to include consideration of resource mobilization in regional and subregional workshops in support of the strategy for resource mobilization, including for ILCs.
- The annex contains a draft recommendation for consideration by COP/MOP 1. It recommends that COP/MOP 1:
- request the Secretariat to include resource mobilization for the Protocol for consideration in its activities for the Strategy for Resource Mobilization;
  - encourage parties to direct domestic resources, in accordance with national circumstances, including those generated through the successful implementation of ABS agreements, as well as through other new and innovative financial mechanisms, towards the implementation of the Protocol, with the reference to domestic resources generated through ABS agreements remaining in brackets;
  - encourage governments, organizations, the private sector and financial institutions to provide financial resources, including through new and innovative financial mechanisms, for the implementation of the Protocol;
  - encourage parties to mainstream implementation of the Protocol in their development cooperation plans and priorities and NBSAPs;
  - invite parties and organizations to submit information to the Secretariat on, *inter alia*, the status of funds mobilized;
  - request the Secretariat to prepare a synthesis and provide an overview of the status and trends in funding for the next COP/MOP; and
  - request the Secretariat to prepare a document on possible relevant sources of international funding to support parties' efforts to mobilize additional international financial resources for the implementation of the Fund.

### ABS CLEARING-HOUSE

Delegates first considered progress on the implementation of the pilot phase and modalities for operation of the ABS clearing-house (UNEP/CBD/ICNP/2/8 and 9) on Tuesday. On Wednesday



and Thursday, delegates discussed a draft recommendation submitted by the Co-Chairs (UNEP/CBD/ICNP/2/CRP.4). This recommendation was adopted without amendment on Friday.

Many parties highlighted the relevance of the clearing-house and the importance of capacity building. Norway suggested establishment of an ABS clearing-house contact point at the national level and supported developing common formats, policy documents and standards. Uganda welcomed the provision to offer non-electronic or non-Internet based information for countries that request it. Japan stressed provision of information on domestic measures is crucial to implement the Protocol's requirements related to benefit-sharing, access and compliance. Thailand said the clearing-house should also facilitate exchange of information between users and providers of genetic resources and associated traditional knowledge.

**PILOT PHASE:** The Secretariat provided an update on the pilot phase of the ABS clearing-house, noting that: relevant staff is hired; a progress report on the pilot phase will be presented at COP 11; and the ABS clearing-house is expected to be operational by the Protocol's entry into force. Many supported that the pilot phase start as early as possible and underscored that it focus on the necessary functions to support compliance with the Protocol. Guatemala proposed the pilot phase include case studies to support information exchange and that such information include diverse, flexible formats to support broad participation of communities and traditional knowledge holders.

On Wednesday, the LMMC proposed language on considering the matter of reaching common understanding on unresolved issues related to the ABS clearing-house, taking into account the preliminary results of the pilot phase. The LMMC reiterated this proposal on Thursday, clarifying that the unresolved issues refer to those included in the annex of the report of the expert meeting on the modalities of operation of the ABS clearing-house (UNEP/CBD/ICNP/1/2), including:

- the need for common understanding on notification of permits or their equivalent;
- updating of internationally recognized certificates of compliance;
- third party transfers;
- the need for a common understanding on the extent to which the Protocol's intent is to track access, use and/or transfers of genetic resources;
- identification of subject matter or genetic resource covered by the certificate; and
- confidential information.

Canada preferred referring to points that may require further consideration. Following informal consultations, delegates agreed to request COP/MOP 1 to take into account the points that may require further consideration for the ABS clearing-house, and suggest ways to reach common understanding on these points, informed by lessons from the pilot phase. They also agreed to include a footnote elaborating that these points refer to paragraph 7 of the annex in the expert meeting report.

**COOPERATION:** Many encouraged the Secretariat to consider lessons learned from the Biosafety Clearing-house, and supported promoting cooperation with existing systems,

such as those established under the World Intellectual Property Organization and the ITPGR. Brazil said that cooperation with other entities should not interfere with the institutionalization and consolidation of the ABS clearing-house. GRULAC emphasized that the ABS clearing-house has a unique role, compared to other mechanisms under other multilateral environmental agreements, as the ABS permits become internationally recognized certificates of compliance once in the clearing-house, and cautioned against confusing the clearing-house with a repository of information.

The EU suggested preambular text that stresses the importance of developing the ABS clearing-house as an integral part of the CBD Clearing-house Mechanism. Brazil, Peru and Uganda, for the African Group, favored including language on the mechanism serving as a means for sharing information related to ABS and specific reference to Article 14 (ABS Clearing-House and Information-Sharing). Canada, supported by India, suggested a chapeau was not needed. Following informal consultations, delegates agreed to include the preambular language in the recommendation.

**INFORMAL ADVISORY COMMITTEE:** The EU, Japan, Jordan and Uganda, for the African Group, supported the establishment of an informal advisory committee. Japan proposed limiting its duration, for further consideration at COP/MOP 1. Jordan highlighted the need to ensure transparency and equitable geographic representation. Malaysia proposed including ILC representatives. Following several delegates' requests for details, the Secretariat explained that this type of committee is a useful mechanism in the context of the CBD and the Biosafety Clearing-houses, and its establishment is initially envisaged for the pilot-phase period, while COP/MOP 1 may decide whether to continue it. She said the committee could include three to five representatives per region and potentially observers; would provide guidance and technical assistance to the CBD Secretariat on issues such as the development of common formats; and would hold one intersessional meeting.

**Final Outcome:** In the recommendation (UNEP/CBD/ICNP/2/L.4), the ICNP, stressing the importance of developing the ABS clearing-house as an integral part of the operations of the Nagoya Protocol and the CBD Clearing-house Mechanism, serving as a means for sharing information related to ABS, in accordance with Protocol Article 14 (ABS Clearing-House and Information-Sharing) and without prejudice to its operational independence and efficacy:

- takes note of the suggested mechanisms and applications to be developed for the pilot phase of the ABS clearing-house;
- urges the Secretariat to expedite the implementation of the pilot phase;
- invites parties and others, including ILCs, to participate in the pilot phase;
- requests the Secretariat, in consultation with parties, to further explore opportunities for collaboration with partners and other data providers in the development of the ABS clearing-house once further progress has been made in the implementation of the pilot phase; and

- requests the Secretariat to prepare a report on progress in the implementation of the pilot phase of the ABS clearing-house, including an indicative work plan and timeline for activities to take place until COP/MOP 1, as well as an updated estimated of resource requirements for the consideration of COP 11, and to report on progress at a future ICNP or COP/MOP 1.

The ICNP recommends that COP 11, *inter alia*:

- establish an informal advisory committee to assist the Secretariat with the implementation of the pilot phase and provide technical guidance. The informal advisory committee shall be regionally balanced and composed of fifteen experts selected on the basis of party nominations;
- endorse the indicative work plan and timeline for activities to take place until COP/MOP 1;
- decide that the informal advisory committee hold one meeting and informal online discussions and report on the outcomes of its work to a future ICNP or COP/MOP 1;
- request the Secretariat to further refine the draft modalities of operation once further progress is made on the implementation of the pilot phase, taking into account views expressed at ICNP 2, and submit them for consideration at a future ICNP or COP/MOP 1; and
- request COP/MOP 1 to take into account points that may require further consideration for the ABS clearing-house and to suggest ways of reaching common understanding of these points informed by lessons learned from the pilot phase.

### CAPACITY BUILDING

Delegates first considered domestic needs and priorities and the proposed elements of the strategic framework for capacity building and development (UNEP/CBD/ICNP/2/10) on Tuesday. On Thursday, delegates addressed a draft recommendation submitted by the Co-Chairs (UNEP/CBD/ICNP/2/CRP.5), which was adopted without amendment on Friday.

Delegates debated the role of the strategic plan as an action plan or as a reference guide. Ghana, on behalf of the African Group, preferred that the framework be designed as an action plan. Brazil, Thailand, India and China also supported the action plan option to guide countries on implementation and developing their own strategic frameworks. Canada preferred the strategic framework serve as a reference document and supported the development of a specific action plan and timeframe. The EU stated that the framework aims at providing guidance and services to parties in national needs assessment and implementation of the Protocol.

Delegates highlighted the need for capacity building at multiple scales. Several parties called for practical capacity-building activities focused on ratification and implementation. Indonesia called for: taxonomic capacity for monitoring genetic resources, including for ILCs, and capacity for negotiating MAT, developing genetic resources databases and law enforcement.

Several supported broad participation in capacity-building activities. Indonesia underlined communication and awareness for ILCs. The Republic of Korea highlighted broad representation and private participation. The IIFB stressed the need for active participation of indigenous peoples and local

communities, including women, in capacity-building activities, noting that training and research activities need to include traditional knowledge.

On Thursday, the EU suggested asking COP 11 to request the Secretariat to organize an expert meeting to develop a draft strategic framework, taking into account not only the synthesis of views and information on domestic needs and priorities (UNEP/CBD/ICNP/2/10), but also the wealth of experiences and lessons learned from existing ABS-related capacity-building and development initiatives and ABS-related bilateral development cooperation.

On recognizing the wealth of experiences and lessons learned, and instruments and methodologies that have been developed under various ABS capacity-development initiatives, the EU suggested adding reference to the ABS Capacity Development Initiative that has expanded from Africa to other regions. He also made proposals regarding an annexed table containing an overview of measures to build or develop capacity to effectively implement the Protocol based on the needs and priorities of parties and ILCs, including: adding a reference to research and taxonomic studies related to conservation of biodiversity, sustainable use of its components and bioprospecting; and referring to business and researchers as specific stakeholders.

**Final Outcome:** In the recommendation (UNEP/CBD/ICNP/2/L.5), the ICNP:

- invites parties and others to take into account the domestic needs and priorities of parties and ILCs contained in Annex I when designing and/or providing support for capacity-building and development activities to implement the Protocol; and
- agrees that a strategic framework should guide the capacity-building and development policies and actions of parties, donors and other actors and include practical capacity-building and development activities in support of the Protocol's implementation.

The ICNP recommends that COP 11 request the Secretariat to:

- continue supporting capacity-building and development activities to support ratification, early entry into force and implementation of the Protocol; and
- organize an expert meeting to develop a draft strategic framework, taking into account the synthesis of views and information on domestic needs and priorities and the proposed elements of the strategic framework for capacity-building and development (UNEP/CBD/ICNP/2/10), the wealth of experiences and lessons learned from existing ABS-related capacity-building and development initiatives and ABS-related bilateral cooperation, as well as the summary of views expressed at the ICNP, as contained in Annex II, in accordance with the following terms of reference: a composition of a maximum of three experts per region and five observers selected by taking into account expertise, equitable geographical distribution and gender balance; and submission of the draft strategic framework for consideration by a future ICNP or COP/MOP 1.

The ICNP also recommends that COP 11 invite parties and others to:

- provide financial resources to support capacity-building and development initiatives to support ratification, early entry into force and implementation of the Protocol; and
- undertake and provide support for capacity-building and development initiatives to support ratification, early entry into force and implementation of the Protocol, taking into account the domestic needs and priorities of parties and ILCs contained in Annex I.

The ICNP further recommends that COP/MOP 1:

- adopt the strategic framework for capacity building and development in support of the effective implementation of the Protocol;
- invite parties and others to carry out capacity-building and development activities consistent with the strategic framework; and
- invite parties, financial institutions and others to provide financial resources to support the implementation of the strategic framework.

The recommendation contains two annexes. Annex I provides an overview of measures to build or develop capacity to effectively implement the Protocol based on the needs and priorities of parties and ILCs over three phases focusing on: capacity to implement and comply with Protocol obligations; capacity to negotiate MAT; capacity to develop, implement and enforce domestic ABS measures; capacity of countries to develop their endogenous research capabilities to add value to their own genetic resources; as well as the particular capacity needs and priorities of ILCs and relevant stakeholders, including the business sector and the research community.

Annex II includes a summary of views on the proposed elements of the strategic framework expressed at ICNP 2, including on: experience and lessons learned from past and ongoing ABS capacity-building and development initiatives; guiding principles and approaches to capacity-building and development; key areas for capacity building; mechanisms for implementation; cooperation among parties; monitoring and review; possible sequence of actions for implementing the strategic framework; and financial and other resource requirements.

### **AWARENESS RAISING**

On Tuesday, the ICNP discussed measures to raise awareness on the importance of genetic resources and associated traditional knowledge. The Secretariat introduced a revised draft awareness-raising strategy for the Nagoya Protocol (UNEP/CBD/ICNP/2/11), as well as other relevant documents (UNEP/CBD/ICNP/2/INF/2, 6 and 7). On Wednesday, delegates discussed a draft recommendation presented by the Co-Chairs (UNEP/CBD/ICNP/2/CRP.3), which was adopted on Friday without amendment.

Many delegates supported the revised strategy and highlighted the crucial role of awareness-raising for the Protocol's implementation. Argentina, Malaysia and Côte d'Ivoire, for the African Group, suggested including reference to awareness-raising for ratification. Many welcomed the revised strategy as a flexible framework enabling implementation of activities adaptable to national circumstances.

Many developing countries supported that COP 11 invite the GEF to provide financial support to countries for awareness-raising activities. Delegates also proposed the inclusion of diverse types of awareness-raising material, such as tools in local languages, radio and short films, and tools for inclusion in the formal education system. Namibia highlighted the need to fully and effectively involve ILCs and other stakeholders in awareness-raising activities. The IIFB underscored the need for full and effective participation in awareness-raising activities.

**Final Outcome:** In the recommendation (UNEP/CBD/ICNP/2/L.4), the ICNP recommends that COP/MOP 1:

- adopt the awareness-raising strategy for the Nagoya Protocol as set out in the annex; and
- recommend that the CBD COP, as part of its guidance to the financial mechanism, invite the GEF to provide financial resources to parties for early action on Article 21 (Awareness-raising).

The ICNP recommends that COP 11:

- request the Secretariat, in collaboration with relevant organizations, to carry out awareness-raising activities to support ratification, early entry into force and implementation of the Protocol;
- invite parties and others to carry out awareness-raising activities to support ratification, early entry into force and implementation of the Protocol, taking into account the draft awareness-raising strategy; and
- further invite parties, financial institutions and others to provide financial resources to support such awareness-raising initiatives.

The recommendation contains an annex on the proposed elements of an awareness-raising strategy for the Protocol, including operational objectives, expected outcomes, indicators, suggested activities, and actors for four priority activities, namely: a communications situation analysis and the development of needs-based awareness-raising strategies at the national, regional and subregional levels; the creation of toolkit and awareness-raising materials; training communicators and engaging target groups; and evaluation and feedback.

### **GLOBAL MULTILATERAL BENEFIT-SHARING MECHANISM**

Delegates first considered the need for and modalities of a global multilateral benefit-sharing mechanism (Article 10) (UNEP/CBD/ICNP/2/7 and Corr.1) on Monday. A contact group, co-chaired by Gurdial Singh (Malaysia) and Andrew Bignell (New Zealand), convened on Wednesday and Thursday to consider a list of questions on Article 10 included in a non-paper that was subsequently revised. On Thursday evening, delegates considered a draft recommendation prepared by the contact group (UNEP/CBD/ICNP/2/CRP.7), which was adopted on Friday without amendments.

Namibia, on behalf of the African Group, reminded participants that the African Group agreed to the Nagoya Protocol with the understanding that there would be future good-faith efforts to establish the mechanism, and provided examples of the transboundary nature of biological resources and traditional knowledge. GRULAC noted that the group has

a common position only on the process for moving forward on Article 10 but does not have a common perspective on its substance.

Several parties, including Mexico, Peru and Egypt, supported an expert meeting on the mechanism. Ecuador said a list of questions to be addressed at the meeting should be clearly defined. Switzerland suggested that an expert meeting be held after the Protocol's entry into force, following an analysis of domestic ABS requirements to clarify situations not covered by the bilateral approach enshrined in the Protocol. The EU proposed focusing first on possible situations, and then on the need, value added and potential risks of addressing these situations through a multilateral mechanism; and cautioned against renegotiating the temporal and geographic scope of the Protocol.

Japan said a global mechanism could be possible provided that it: embodies a modality acceptable for users; is cost-effective; and is managed so that benefits are directed to biodiversity conservation and sustainable use. Underscoring the efforts of more than nine years to develop the Protocol as a sovereignty-based bilateral mechanism, Canada cautioned against potentially developing an alternative mechanism.

Peru said it was open to considering a multilateral mechanism in special circumstances, such as situations with a shared resource or shared traditional knowledge, but underscored the need for clarification on the distribution of benefits. Brazil emphasized that consideration of the need for a mechanism should be undertaken by the Protocol parties. Cuba supported a multilateral mechanism in particular cases where the Nagoya Protocol is not clear on its scope or the form of benefit-sharing.

Participants discussed situations in which it is not possible to obtain PIC, including the role of national legislation or bilateral alternatives. The Republic of Korea recommended keeping in mind Protocol Articles 4 (Relationships with International Agreements and Instruments) and 11 (Transboundary Cooperation). Norway suggested considering work in other fora such as the UN General Assembly Working Group on marine biodiversity beyond national jurisdiction. Participants also discussed the role of capacity building in supporting countries in dealing with situations under Article 10.

Participants debated the possible application of the mechanism to pre-CBD, pre-Protocol and post-Protocol collections, as well as to new and continuing uses of pre-CBD collections; and the status of national legislation regulating access to pre-CBD collections. Burkina Faso underscored the mechanism could address parties' concerns, in particular on genetic resources acquired before the entry into force of the Nagoya Protocol. Malaysia called for resolving whether the Nagoya Protocol covers *ex situ* collections and stressed that a global mechanism should not undermine state sovereignty.

Participants raised questions related to the difference between transboundary situations under Articles 10 and 11. Sudan highlighted that these two articles are not contradictory but have a different scope.

Wednesday's contact group addressed a list of questions prepared by the Co-Chairs and raised a number of additional questions related to the:

- difference between transboundary genetic resources and transboundary traditional knowledge;
- possible contribution from the private sector to the mechanism;
- relevance of existing international process and instruments;
- links between migratory species and transboundary situations;
- possible implications for the principle of national sovereignty over natural resources;
- avoidance of disincentives to the implementation of the Protocol;
- status of transfers of genetic resources and traditional knowledge to third parties;
- need to ensure that the mechanism be used as a last resort;
- possible problems and solutions that the mechanism could create for user and provider countries, respectively; and
- need for a global mechanism.

Following exchanges on a revised list of questions, delegates agreed to annex to a draft recommendation to COP 11 two lists of questions, differentiating between the previous list of questions included in the initial version of the non-paper and additional questions resulting from contact group exchanges.

On process, delegates agreed that: targeted views should be sought not only from governments, organizations and ILCs, but also from "all interested stakeholders," and these views be based not only on the indicative list of questions, but also on "other perspectives on the matter."

**Final Outcome:** In the final recommendation (UNEP/CBD/ICNP/2/L.6), the ICNP recommends that COP 11:

- request the Secretariat to conduct a broad consultation on Article 10;
- invite parties and others to contribute to the consultation, bearing in mind the indicative list of questions in Part A of the annex as well as other perspectives for a synthesis to be prepared; and
- request the Secretariat to convene a meeting of a regionally balanced expert group to: review the synthesis; identify potential areas of common understanding and areas that could be further examined; and submit the outcomes of its work for consideration by a future ICNP or COP/MOP 1.

The recommendation contains an annex with two parts. Part A is an indicative list of nine questions on the need for and modalities of a global multilateral benefit-sharing mechanism. Part B consists of 20 additional questions raised by parties at ICNP 2.

### COMPLIANCE

Delegates started their deliberations on compliance (UNEP/CBD/ICNP/2/12) on Tuesday. A contact group, co-chaired by Kaspar Sollberger (Switzerland) and Larissa Costa (Brazil), addressed the issue on Wednesday and Thursday, without concluding its work. On Friday, the closing plenary did not make any amendments to the contact group's outcome, which remains a work in progress.

The EU stated that the compliance mechanism should not deal with compliance by private individuals and entities with national ABS legislation, and noted the Protocol directly addresses ILCs, expressing willingness to explore ILC involvement in the compliance mechanism.

Swaziland, on behalf of the African Group, recommended that the compliance mechanism: address compliance in a comprehensive and balanced manner; decide by consensus or majority voting as a last resort; receive complaints from non-state actors if all domestic options have been exhausted; and include ILCs as observers. He suggested consideration of establishing an ombudsman. Egypt and South Africa stressed that the compliance mechanism should impact the behavior of both providers and users in a way that goes beyond mere compliance with national ABS measures.

China said the compliance mechanism should be non-confrontational, facilitative, equitable, and take into full consideration special circumstances and needs of developing countries. Peru preferred that a compliance committee: function relatively independently from parties in a transparent manner; decide on the basis of consensus or simple majority; be triggered by countries directly affected by non-compliance cases; and receive information on non-compliance cases from any interested parties, including ILCs.

Japan said the mechanism should focus on compliance by parties, whereas users and traditional knowledge holders should not be addressed. Norway stressed that: breaches of MAT are to be ascertained by national courts; compliance with provisions on traditional knowledge should be treated equally with other obligations under the Protocol; and ILCs should have a role in non-compliance instances that directly affect them and should have the same rights to participate in the development of the compliance mechanism as they had during the negotiation of the Protocol. Indonesia underscored the role of the compliance mechanism to clarify the content and promote the application of the Protocol provisions, and prevent disputes.

Brazil suggested that the compliance mechanism: should, similarly to the ITPGR, emphasize a facilitative approach; allow participation of ILCs as observers; and, in cases of repeated non-compliance, lead possibly to the adoption of measures by the COP/MOP, albeit without a mandate to impose sanctions. The Republic of Korea argued that financial penalties, trade consequences, criminal penalties and judicial facilitation measures are inconsistent with Article 4 (Relationships with International Agreements and Instruments). Argentina preferred a facilitative and cooperative mechanism, and called for consistency with international law, including under the World Trade Organization.

Guatemala said: the mechanism should be non-confrontational and binding, particularly in cases of non-compliance; providers and users' interests should be balanced; and further consideration of traditional knowledge holders is needed. Malaysia suggested a differentiated treatment between lack of funding or capacities for compliance and the persistent refusal to comply with the Protocol. He noted that some of the Protocol's core obligations need further guidance from the COP/MOP. Canada

recommended the procedure of the compliance mechanism be similar to mechanisms under other MEAs, suggesting consideration of those under the Biosafety Protocol, the Basel Convention and ITPGR, among others.

The IIFB affirmed the Nagoya Protocol is expected to have innovative procedures and mechanisms to implement its provisions related to indigenous peoples and local communities and traditional knowledge, and supported inclusion of indigenous representatives in a compliance committee.

With regard to the objectives, nature and underlying principles of the compliance procedures, delegates discussed ILC-proposed text on the operation of the compliance mechanism, paying particular attention to "the role of ILCs." Mexico and Ecuador supported the text, while Canada opposed. Ecuador also supported reference to the principle of "non-discrimination" proposed by ILCs. The Philippines, opposed by the African Group, proposed reference to the "*sui generis* mechanisms of ILCs, taking into account their customary laws, norms and practices in accordance with national legislation."

The African Group, opposed by Canada and the EU, requested that the compliance mechanism be legally binding. The EU requested bracketing references to Protocol Articles 15-18, as well as bracketing text on public oral hearings of the compliance committee.

Malaysia, opposed by the African Group, supported an ILC proposal on the committee considering information acquired through formal submissions or "other sources." Brazil preferred that the Secretariat forward to the committee submissions only from parties or the COP/MOP. Colombia recommended that submissions from ILCs to the committee be "supported by the party in whose national territory the ILC is located."

The EU bracketed reference to the "party that made the submission" participating in the consideration of the submission by the compliance committee. The US, supported by Canada, suggested allowing parties to participate in the consideration of the submission "at all stages of the process." The Philippines, opposed by Canada, recommended that the compliance committee consider "information generated under Articles 15.2 and 16.2" (non-compliance with domestic ABS measures). Colombia, supported by China, suggested that the committee take into account possible conflicts of interest when seeking expert advice.

Under measures to promote compliance and address non-compliance, the Philippines, opposed by Ecuador, suggested to "require the party concerned to take action and after appropriate procedures, apply sanctions against those in non-compliance with Articles 15.2 and 16.2 within their jurisdictions." Canada opposed a proposal that the COP/MOP, upon the recommendations of the committee, may recommend suspension of specific rights and privileges. China bracketed a proposal that the COP/MOP publish cases on non-compliance. Brazil preferred to notify the COP/MOP only cases of "repeated," but not "grave," non-compliance, for it to decide the appropriate measures according to international law.

The African Group proposed that the committee establish an ABS ombudsman to provide assistance to developing countries

and ILCs to identify instances of non-compliance and make submissions to the committee.

Delegates agreed that a compliance committee should comprise 15 members, three from each UN region, nominated by parties and endorsed by the regional groups. Delegates then addressed the question of ILC participation in the compliance committee on the basis of two options referring to the participation of ILC representatives as observers or the participation of one ILC representative as a full member. Some delegates raised the concern that ILC observers would create an imbalance in the committee. Many participants said it should be left to the parties to nominate ILC representatives as their proposed members of the committee. Others highlighted the low probability of such nominations to materialize, stressing that traditional knowledge is an integral part of, and ILCs are awarded special rights by, the Protocol. Emphasizing the unique status of ILCs under the Protocol, a developing country suggested that the compliance committee consult with relevant ILC bodies as identified by ILCs in matters related to associated traditional knowledge and genetic resources over which ILCs have rights to grant access, as an alternative solution to ILC representation among the committee members. The proposal was eventually not included in the document.

Delegates debated, without reaching agreement, whether compliance committee members should be party representatives or serve in their personal capacity. Delegates could not agree whether the compliance committee should reach agreement on matters of substance only by consensus, or also by majority voting as a last resort. A developed country suggested that in case the committee operates by consensus, if a committee member has the nationality or was nominated by the party concerned, the member "should be excluded from the formation of consensus." Delegates were then unable to find agreement on whether certain compliance committee meetings should be public.

On Friday, the closing plenary made no amendments to the outcome of the contact group's work, and recommended to COP 11 that this outcome serve as the basis for future consideration of the item.

**Final Outcome:** In the recommendation (UNEP/CBD/ICNP/2/L.9), the ICNP recommends that COP 11 forward the draft on cooperative procedures and institutional mechanisms to promote compliance with the Protocol and to address cases of non-compliance to COP/MOP 1 or a future ICNP. The draft procedures and mechanisms contained in an annex address: objectives, nature and underlying principles; institutional mechanisms; functions of the compliance committee; procedures; information for and consultation by the committee after the triggering of the procedures; measures to promote compliance and address cases of non-compliance; ombudsman; and review of procedures and mechanisms.

On objectives and principles, the draft states that the procedures shall: include the offering of advice and assistance; be non-adversarial, cooperative, advisory and facilitative, with bracketed references to non-judicial, preventive and legally

binding/non-binding in nature; and pay particular attention to the special needs of developing country parties and ILCs, which remains in brackets.

On institutional mechanisms, the draft proposes the establishment of a compliance committee consisting of 15 members nominated by parties, endorsed by the respective UN regional groups and elected by the COP/MOP. Bracketed text refers to: including ILC representatives as observers in the committee; including one ILC representative as a member of the committee; members serving in their individual and personal capacity or as representatives of parties; and holding meetings of the committee open to the public. The draft also contains two options on how the committee will reach agreement on matters of substance: by consensus; or by consensus or qualified majority voting as a last resort.

The functions of the committee include bracketed text on: considering information from formal submissions or other sources; assessing the extent of implementation and compliance by parties by reviewing parties' reports; recommending appropriate measures to the COP/MOP; responding to requests submitted by parties for advice and assistance in the establishment of cooperation between parties in cases of alleged violations of domestic ABS measures; responding to requests from parties for assistance in legal training and provision of capacity building; and consulting with other compliance committees to share experiences and options for resolution of compliance issues.

On procedures, the draft states that the committee will receive submissions from any party with respect to itself and, in brackets, from: a party with respect to another party; the COP/MOP; the compliance committee members; the Secretariat; members of the public; and ILCs, with the option that ILCs making submissions be supported by the party on whose national territory they are located. Text on the compliance committee examining questions of compliance, including systemic issues of general non-compliance, remains in brackets.

On information and consultation, the draft states that the committee shall consider relevant information from the party concerned and, in brackets, from the party or entity that made a submission, affected ILCs and any other relevant source. Bracketed options concern the possibility for the committee to seek expert advice and information from various sources.

Two options outline possible measures to promote compliance and address cases of non-compliance, including bracketed references to, *inter alia*: recommending or providing financial and technical assistance, technology transfer and other capacity-building measures; publishing cases of non-compliance after consultation with the COP/MOP; sending a public notification of a compliance matter to all parties; in cases of grave or repeated non-compliance, notifying the COP/MOP; suspending specific rights and privileges; applying financial or trade penalties; requiring the appointment of a representative in the provider country to facilitate administrative and/or criminal procedures; and giving notification to relevant judicial authorities of a party.

A bracketed section provides that the committee establish an ombudsman to provide assistance to developing countries

and ILCs to identify instances of non-compliance and make submissions to the committee.

The last section provides for the review of the effectiveness of the procedures and mechanisms by the COP/MOP. A bracketed sentence provides that the committee may identify the need for any additional review.

### **FUTURE WORK**

On Thursday, delegates addressed a draft recommendation on further work in preparation for COP/MOP 1 (UNEP/CBD/ICNP/2/CRP.6), submitted by the Co-Chairs under the agenda item on other matters. The LMMC proposed inviting CBD parties to take the necessary administrative, policy and legal steps at the earliest possible time, including the appointment or designation of checkpoints and of competent national authorities that will pursue the implementation of specific obligations under the Protocol, including the ABS clearing-house. He also proposed requesting the Secretariat to start preparatory work on a proposal for the procedure and timeframe for the handling and recognition of the internationally recognized certificates and the establishment of unique identifiers for COP/MOP 1's consideration. Following concerns expressed by the EU and Brazil, Peru suggested, and delegates eventually agreed, to ask the Secretariat to request information from parties on outstanding issues they believe should be addressed, for further discussion at ICNP 3 or COP/MOP 1.

Stressing the need for an additional ICNP meeting, Ghana suggested preparing a table indicating progress achieved in each activity in the ICNP work plan as well as outstanding tasks. Delegates agreed to request the Executive Secretary to make available for COP 11 an overview of the status of the issues considered by ICNP as set out in its work plan in Annex 2 of Decision X/1 (ABS).

Delegates also agreed to defer to an ICNP 3 or COP/MOP 1 substantive discussion on a programme budget for the biennium following the Protocol's entry into force, rules of procedures, and a draft provisional agenda for COP/MOP 1.

**Final Outcome:** In the recommendation (UNEP/CBD/ICNP/2/L.8), the ICNP invites parties to submit information to the Secretariat on steps taken towards ratification and implementation and additional issues that may need to be addressed in preparation for COP/MOP 1, for a compilation to be available at COP 11. The Secretariat is also requested to: include in its note on the proposed budget for COP 11 consideration, the costing of activities for the next biennium recommended by ICNP 2 in preparation for COP/MOP 1; and make available for the information of COP 11 an overview of the status of issues for ICNP consideration as set out in its work plan.

The ICNP further recommends that COP 11 reconvene the ICNP for a third meeting to address outstanding issues of its work plan in preparation for COP/MOP 1.

### **CLOSING PLENARY**

On Friday morning, the closing plenary convened to adopt the recommendations, as described under each substantive item addressed in this report.

Regretting the delay in finalizing the French version of the Nagoya Protocol, France requested the Secretariat to monitor the quality of translations. The EU acknowledged the pragmatic approach of all delegations, and expressed readiness to engage in further negotiations and elaborate elements of the Nagoya Protocol as countries move towards ratification and domestic implementation.

India, for the Asia-Pacific, noted that discussions on the multilateral benefit-sharing mechanism were useful in paving the way forward on a complex issue, while deliberations on compliance were slow but produced good results. Ukraine, for CEE, highlighted the good spirit of cooperation in the negotiations.

Cameroon, for the African Group, said the meeting provided an opportunity for exchanging challenges and experiences in moving forward with ratification and implementation, underscoring the accelerated move towards giving effect to the third pillar of the CBD. She stressed that collaboration is critical in translating the Protocol's spirit into reality, expressing the hope that COP 11 and intersessional processes will provide the political momentum for this collaboration to move forward.

Japan lamented that many countries, including Japan, are not yet ready for ratification, and welcomed the recommendation to COP 11 regarding a third meeting to finalize substantive issues and promote mutual understanding.

India announced a pledge of US\$1 million to support participation of the least developed countries in the COP 11 High-level Segment. The Republic of Korea drew attention to their offer to host COP 12.

The IIFB urged CBD parties to ratify the Protocol, which is a means to realize indigenous rights, and highlighted that participation of traditional knowledge holders is crucial for implementation. She noted that IIFB's well-established structure allows them to nominate experts in different expert and advisory groups, and encouraged contributions to the voluntary fund to allow for full ILC participation.

Rapporteur Stepic then introduced the report of the meeting (UNEP/CBD/ICNP/2/L.1), which was adopted with minor amendments.

CBD Executive Secretary Dias emphasized continued efforts towards early ratification of the Nagoya Protocol, stressing the Secretariat's support, and expressed hope that COP/MOP 1 can be held in conjunction with COP 12. Co-Chair Lowe gavelled the meeting to a close at 1:22 pm.

## **A BRIEF ANALYSIS OF ICNP 2**

Delegates arriving in New Delhi for the second meeting of the Intergovernmental Committee for the Nagoya Protocol were greeted by summer heat but refreshing news. Recent reports of intense domestic activity indicate that many countries have already embarked in a serious effort to develop national ABS measures, in parallel with proceeding with their national ratification processes, thus paving the way for the Protocol's entry into force.

But while participants at ICNP 2 were certainly impressed that the Protocol is already making a tangible impact at the national level so soon after its adoption, they also had to accept that the optimistic expectations of an almost-instant entry into force, which would allow COP/MOP 1 to meet in conjunction with CBD COP 11 in October, would not materialize. In any case, the Protocol, rightly portrayed by delegates and the Co-Chairs alike as one of the few recent achievements of environmental multilateralism, is a complex instrument that merits serious engagement in order to trigger the international cooperative efforts on benefit-sharing, access and compliance that underlie it.

With the first meeting of the Protocol's governing body now likely to occur in conjunction with COP 12 in 2014, delegates switched into "planning" mode to chart the road from COP 11 to COP/MOP 1. In addition, ICNP 2 delegates debated some of the key elements of the Protocol that were left open to further international negotiations, notably the multilateral benefit-sharing mechanism and an international compliance mechanism. This brief analysis will focus on these two elements of the Protocol, which reveal the Protocol's paradox of aiming to provide "legal certainty" on ABS while simultaneously leaving many details still to be defined. The analysis will conclude by considering how progress on these issues may affect the rate of ratifications, and pointing to the opportunities and challenges for national-level action.

#### **MULTILATERAL BENEFIT-SHARING MECHANISM: WHERE ARE WE GOING FROM HERE?**

One of the most prominent items on the agenda of the meeting was the Protocol's "mysterious" Article 10 on a global multilateral benefit-sharing mechanism. Under this article, such a multilateral mechanism is envisioned to address cases of utilization of genetic resources and associated traditional knowledge in transboundary situations or for which it is not possible to grant or obtain prior informed consent (PIC). This provision was included in the COP 10 Presidency's compromise text that was put forward and adopted in the final, late hours in Nagoya. As such, it was not negotiated: according to insiders, it was "offered" to the African Group as a way to incorporate their concerns on the limits to geographic and temporal scope of the Protocol, specifically the status of genetic resources accessed before the entry into force of the Nagoya Protocol, and possibly also before the entry into force of the CBD, and of those resources in areas beyond national jurisdiction. Several developing countries are concerned about the status of, and potential benefits realized from the use of, genetic resources included in developed countries' genebanks and botanical gardens, most acquired before the CBD entered into force.

The text of the provision, however, raises more questions than it answers. ICNP 2 preliminary discussions clearly showed that there is no clear, let alone common, understanding of which situations a multilateral mechanism should cover, whether this mechanism should work in parallel or as an alternative to cooperative efforts in relation to transboundary genetic resources called for under Article 11, who will benefit from the mechanism and how exactly benefits will contribute to biodiversity conservation and sustainable use. In addition, as pointed out

by a seasoned observer, countries may be skeptical of the need to establish any multilateral mechanism because of a potential "competition" of such an instrument with bilateral ABS deals, as users may find it easier to go to a global entity than to engage in bilateral negotiations. Importantly, Article 10 does not call for the establishment of a multilateral mechanism, but only asks parties to consider "the need for its establishment." Thus, certain parties (from both the North and the South) emphasized that even before trying to collectively decipher the meaning of Article 10, states should first assess whether there is a need for such a mechanism. Other parties insisted on first determining whether the full implementation of other Protocol provisions that are based on a "bilateral approach" to ABS—referring to the CBD's preferred approach of establishing ABS contracts between providers and users on the basis of national legislation and international law—would leave any gaps to be filled by the multilateral mechanism. However, as the operationalization of Article 10 is seen by the African Group as an indispensable step in ensuring the fairness of the global deal on ABS struck in Nagoya, these positions resulted in open allegations of bad faith and in-the-corridors references to "bringing back bad memories of COP 10."

In the end, delegates found a way out and elaborated a way forward. ICNP 2 prepared a list of questions to facilitate a systematic exchange of views on the multiple ways in which Article 10 may be operationalized. It is still early to assess whether these questions will effectively lead to a constructive exchange on the usefulness of a multilateral mechanism in the Protocol's complex architecture of international and national implementation efforts, or whether they will result in fruitless discussions. Still, one delegate underscored the importance of creating "a good process forward," to keep the faith of those negotiators with high stakes in the elaboration of Article 10.

In the meantime, the varying interpretations of Article 10 may well impact ratification and implementation. Particularly, the exclusion of genebank collections from the Protocol's framework may have a "chilling effect" on field research: users may find it more convenient to use genetic resources in collections rather than accessing them *in situ*. On the other hand, uncertainty about interpretation and possible implementation of Article 10 could lead users to lobby against ratification.

#### **COMPLIANCE: ON A LONG ROAD, MILES TO GO**

Another hot agenda item at ICNP 2 was the compliance procedures, and in particular their relevance vis-à-vis another complex aspect of the Protocol—its provisions on indigenous and local communities (ILCs) and their traditional knowledge. Participation of ILCs appears "indispensable" to some in light of the inseparable nature of genetic resources and traditional knowledge and due to the rights of ILCs recognized in several Protocol provisions. While there was understanding, at least among observers, that the credibility and legitimacy of the Protocol would also be reflected in the "opening" of compliance procedures to the participation of ILCs, CBD parties were divided on this issue, with some fearing that ILCs would utilize a compliance committee to "bypass" national institutions, and others expressing concern that community submissions will "flood" the system.



Although ILCs themselves were not vocal at this meeting due to the small number of representatives present, possibly resulting from a combination of visa issues and funding shortages, certain countries put forward a variety of possible avenues to ensure a community “voice” in the compliance mechanism. Options ranged from a community trigger of the procedure, to enabling community representatives to participate in the compliance committee as members or as observers, to the possibility for communities to submit information directly to the compliance committee, or the possibility for the committee to directly consult with relevant communities. The African Group also “resurrected” its proposal to create an ombudsman (which had been included in certain drafts of the Protocol but disappeared from the compromise text adopted in Nagoya). As revamped, the ombudsman could create an intermediate layer in the compliance procedure where the party concerned and its relevant communities could initially address implementation challenges with some international facilitation, but without too much interference in domestic affairs. In light of the recent proposal to allow for ILCs’ submissions to the compliance committee only if they meet certain screening criteria, the ombudsman could be an alternative way to select well-founded community submissions for transmission to the compliance committee.

In the end, COP/MOP 1 is where the “real” negotiations on the compliance committee are expected to take place. Thus, ICNP 2 delegates put the groundwork in place by outlining the main points of contention and proposing several detailed options. The outstanding question is now to find an appropriate combination that will ensure countries’ comfort with an international source of guidance and support on implementation while at the same time respecting the ILCs’ role and expertise as right holders under the Protocol.

#### **FUNDING FOR PROGRESS: VISIBLE/INVISIBLE BEND**

As delegates worked through these key issues, it became increasingly clear that the number of unresolved, substantive questions likely means that there will have to be an additional meeting of the ICNP. And even before ICNP 3, COP 11 will have to address an additional issue critical for ratification and implementation of the Protocol—notably, funding.

During ICNP 2, African countries repeatedly stressed their inability to access financing through the Nagoya Protocol Implementation Fund (NPIF), managed by the GEF. Particularly for countries that did not request support for ABS-related activities under their GEF-5 allocation, the NPIF is the only available financing source until GEF-6, which is scheduled to start in 2014. However, this NPIF funding, according to well-informed insiders, is not actually available to support some of the key national activities that could facilitate ratification processes. In fact, although the NPIF was aimed at supporting signatory countries and those in the process of signing or ratifying the Nagoya Protocol to accelerate ratification and implementation, in practical terms, it seems to be targeted at “ABS activities.” As a result ABS agreements between individual users and providers and technology transfer with private sector engagement are eligible, and preferred over on-the-ground consultations and capacity building for relevant decision-makers to speed-up law-

making and ratification, as some developing countries wished. In the end, ICNP 2 delegates came to terms with these issues and adopted guidance to COP 11 recommending that NPIF funds be used for their “primary objective” of enabling implementation of the Protocol at national and regional levels. In addition, they recommended that procedures for access to NPIF funds be expedited.

Sufficient and accessible funding is certainly needed for countries facing the unprecedented complexities of developing domestic ABS measures. Early implementation at the national level may also be significant in illustrating innovative ideas or clarity gained from local and national efforts on unresolved issues with which the ICNP may be struggling. The ABS negotiators, therefore, will certainly have important tasks at COP 11, both in building confidence throughout the larger biodiversity community that ABS is “really happening thanks to the Protocol” but also in ensuring that the CBD resource mobilization strategy, the COP’s guidance to the GEF, and its budget duly account for the practical needs of ensuring entry into force.

### **UPCOMING MEETINGS**

#### **Asia/Pacific Regional ILC Preparatory Workshop for**

**CBD COP 11:** This regional workshop for indigenous and local community (ILC) representatives aims to increase the number of ILCs, with an emphasis on women, effectively involved in the CBD processes, as well as to build their capacity to do so. It will focus on Article 8(j) (traditional knowledge) and related provisions, Article 10(c) (customary sustainable use), as well as the Nagoya Protocol, and aims at preparing ILC representatives for CBD COP 11. **dates:** 9-12 July 2012 **location:** Chiang Mai, Thailand **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=8J-PREPCOP11-02>

**62nd Meeting of the CITES Standing Committee:** The CITES Standing Committee provides policy guidance to the Secretariat concerning the implementation of the Convention and oversees the management of the Secretariat’s budget; coordinates and oversees, where required, the work of other committees and working groups; carries out tasks given to it by the Conference of the Parties; and drafts resolutions for consideration by the Conference of the Parties. **dates:** 23-27 July 2012 **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/com/sc/index.php>

#### **Regional Workshop for the Pacific on Updating NBSAPs:**

The purpose of this workshop is to address various issues that countries in the region may have or will encounter while updating their national biodiversity strategy and action plans (NBSAPs), with a focus on target setting, stakeholder engagement and the development of country-specific plans for mobilizing financial resources for the implementation of NBSAPs. **dates:** 6-9 August 2012 **location:** Rotorua, New Zealand **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=WSNBSAP-PAC-01>

**Latin America and the Caribbean Regional ILC Preparatory Meeting for CBD COP 11:** This preparatory meeting for COP 11 for ILC representatives from Latin America and the Caribbean will be held from 13-16 August 2012. It will be combined with the regional workshop for ILC trainers of the region on Articles 8(j), 10(c) and related provisions of the CBD and the Nagoya Protocol, which will be held from 17-18 August 2012. **dates:** 13-18 August 2012 **location:** Asuncion, Paraguay **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=8J-PREPCOP11-03>

**Regional Workshop for the Caribbean on Updating NBSAPs:** The purpose of this workshop is to address various issues that countries in the region may have or will encounter while updating their NBSAPs, with a focus on target setting, stakeholder engagement and the development of country-specific plans for mobilizing financial resources for the implementation of NBSAPs. **dates:** 5-7 September 2012 **location:** Port of Spain, Trinidad and Tobago **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=RWNBSAP-CAR-02>

**IUCN World Conservation Congress 2012:** The Congress theme will be Nature+, a slogan that captures the fundamental importance of nature and its inherent link to every aspect of people's lives, including: nature+climate, nature+livelihoods, nature+energy and nature+economics. **dates:** 6-15 September 2012 **location:** Jeju, Republic of Korea **contact:** IUCN Congress Secretariat **phone:** +41-22-999 0336 **fax:** +41-22-999-0002 **email:** congress@iucn.org **www:** <http://www.iucnworldconservationcongress.org/>

**Regional Workshop for CEE and Central Asia on updating NBSAPs:** The regional workshop for Central and Eastern Europe and Central Asia on updating NBSAPs aims to address issues that countries in the region may encounter while updating their NBSAPs and mainstreaming these NBSAPs in other economic sectors. It will also focus on the use of indicators to monitor biodiversity at national and regional levels in the context of monitoring progress towards the global Aichi Biodiversity Targets. **dates:** 10-14 September 2012 **location:** Chisinau, Republic of Moldova **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=RWNBSAP-CEECA-01>

**CGRFA Technical Working Group on ABS:** The *Ad Hoc* Technical Working Group on Access and Benefit-sharing for Genetic Resources for Food and Agriculture of the FAO Commission on Genetic Resources for Food and Agriculture (CGRFA) will address: distinctive features of the different sectors and sub-sectors of genetic resources for food and agriculture; options to guide and assist countries in developing legislative, administrative and policy measures; and possible modalities for addressing ABS for genetic resources for food and agriculture. **dates:** 11-13 September 2012 **location:** Longyearbyen (Svalbard), Norway **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-meetings/cgrfa-abs/wg-abs-1/en/>

**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 will address, among other issues: handling, transport, packaging and identification of living modified organisms; notification requirements; liability and redress; unintentional transboundary movements and emergency measures; risk assessment and risk management; socioeconomic considerations; and monitoring and reporting. **dates:** 1-5 October 2012 **location:** Hyderabad, India **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=MOP-06>

**CBD COP 11:** The eleventh meeting of the Conference of the Parties to the Convention on Biological Diversity will address, among other issues: the status of the Nagoya Protocol on ABS; implementation of the Strategic Plan for Biodiversity 2011-2020 and progress towards the Aichi Biodiversity Targets; financial resources and financial mechanism; operations of the Convention; Article 8(j) and related provisions; review of the programme of work on island biodiversity; ecosystem restoration; marine and coastal biodiversity; biodiversity and climate change; and biodiversity and development. **dates:** 8-19 October 2012 **location:** Hyderabad, India **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/cop11/>

## GLOSSARY

ABS	Access and benefit-sharing
CBD	Convention on Biological Diversity
CEE	Central and Eastern Europe
CGRFA	Commission on Genetic Resources for Food and Agriculture
COP	Conference of the Parties
COP/MOP	Conference of the Parties serving as the Meeting of the Parties
GEF	Global Environment Facility
GRULAC	Latin America and the Caribbean Group
ICNP	Intergovernmental Committee for the Nagoya Protocol
IIFB	International Indigenous Forum on Biodiversity
ILCs	Indigenous and local communities
ITPGR	International Treaty on Plant Genetic Resources for Food and Agriculture
LMMC	Like-minded Megadiverse Countries
MAT	Mutually agreed terms
NPIF	Nagoya Protocol Implementation Fund
NBSAP	National Biodiversity Strategy and Action Plan
PIC	Prior informed consent
STAR	System for Transparent Allocation of Resources