



HIGHLIGHTS OF ABS WG-1 MONDAY, 22 OCTOBER 2001

The first meeting of the *Ad Hoc* Open-ended Working Group on Access and Benefit-sharing (ABS) under the Convention on Biological Diversity (CBD) began its deliberations, as delegates heard opening statements and considered organizational matters in a morning Plenary. In the afternoon, two Sub-Working Groups convened to address substantive issues. Sub-Working Group I (SWG-I) discussed the development of draft international guidelines on ABS, and Sub-Working Group II (SWG-II) discussed an action plan for capacity building.

PLENARY

OPENING STATEMENTS: Ruben Olembo, on behalf of Noah Katana Ngala, COP-5 Bureau President and Minister of Environment and Natural Resources of the Republic of Kenya, opened the meeting. He highlighted developing countries' interests in ABS guidelines, especially for poverty reduction and sustainable development. He reviewed previous work under the Experts' Panel and the Conference of the Parties and noted Saudi Arabia's recent accession to the CBD.

Bärbel Dieckmann, Mayor of Bonn, welcomed participants and highlighted the city as a prime location for worldwide dialogue on environmental issues. She noted that developing countries contain a large proportion of biodiversity and that developed countries have a duty to accept responsibilities towards them. Gila Altmann, Parliamentary State Secretary of the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, discussed the importance of biodiversity conservation as a focal point in German environmental policy, and highlighted some of the problems of environmental degradation in Germany. Stressing the value of global dialogue and partnerships in striving for global equity, she expressed hope for pragmatic solutions in the development of ABS guidelines.

Paul Chabeda, on behalf of Klaus Töpfer, Executive Director of the UN Environment Programme, highlighted the importance of ABS in realizing the CBD's objectives, as the issue underscores the principle of equity. He also reviewed Decision V/26 establishing the Working Group and its mandate to develop guidelines and other approaches to ABS. CBD Executive Secretary Hamdallah Zedan thanked the Government of Germany for its financial and technical support, as well as the Governments of Sweden and the UK. Noting work done by the Experts' Panel, he said this meeting marks a new and crucial stage in the CBD process and that successful guidelines on ABS will be used to judge the Convention's effectiveness.

ORGANIZATIONAL MATTERS: Olembo introduced the agenda (UNEP/CBD/WG-ABS/1/1/Add.1/Rev.1), which was adopted without comment. Delegates elected, as per the COP-5 Bureau's suggestion, Gila Altmann (Germany) and Mohamad bin Osman (Malaysia) as the meeting's Co-Chairs. They also approved

the meeting's organization of work: SWG-I, chaired by Birthe Ivars (Norway), would address the development of draft international ABS guidelines; and SWG-II, chaired by José Cabrera Medaglia (Costa Rica), would address other approaches, including an action plan for capacity building, and intellectual property rights (IPR) in ABS arrangements. ARGENTINA noted difficulties in participation for single-person delegations.

SWG-I Chair Medaglia reported on the outcomes of the Panel of Experts meetings in Costa Rica (UNEP/CBD/COP/5/8) and Montreal (UNEP/CBD/ABS-WG/1/2). The Panel suggested that capacity building be dealt with in a cross-sectoral manner and referred to elements such as: mutually agreed terms (MAT); prior informed consent (PIC); benefit-sharing; the role of IPR; connections with other relevant bodies such as the World Intellectual Property Organization (WIPO); participation of stakeholders; and case studies.

WIPO reviewed the work of its Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore with regard to: guiding contractual practices and model IPR clauses for ABS arrangements; traditional knowledge; and cooperation with the CBD and the Commission on Genetic Resources for Food and Agriculture. The UN FOOD AND AGRICULTURAL ORGANIZATION (FAO) provided an update on the negotiations for the revision of the International Undertaking (IU), as in Annex II of UNEP/CBD/WG-ABS/1/3, and said that an Open-ended Working Group would convene from 30 October to 1 November to address pending items and finalize the text for the agreement to be adopted during the upcoming FAO Conference.

The UN CONFERENCE ON TRADE AND DEVELOPMENT reported on recent meetings on the role of traditional knowledge in trade and development, with specific regard to: strategies for cooperation with WIPO and other relevant bodies; the BIOTRADE Initiative; development of country-specific capacity-building projects; and the harnessing of traditional knowledge for trade and development.

The INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY (IIFB) presented the statement of its meeting held from 15-21 October 2001. Noting that the CBD was negotiated without the participation of indigenous peoples, the Forum emphasized, *inter alia*, the links between indigenous peoples and biodiversity with specific reference to the role of women in preserving this biodiversity, and the collective rights of indigenous peoples. The Forum's recommendations addressed, *inter alia*, self-determination, PIC, relationships with other international legal regimes, CBD operations, capacity building, and equitable benefit-sharing.

A representative of the National Session of the GLOBAL BIODIVERSITY FORUM for Germany highlighted its recent deliberations, noting the need to, *inter alia*: broaden ABS debates beyond commercial aspects to include conservation, sustainable use, the ecosystem approach and poverty alleviation; adopt

This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Tonya Barnes <tonya@iisd.org>, Stas Burgiel <stas@iisd.org>, Michael Davis <mdavis@pcug.org.au> and Elsa Tsioumani <elsa@iisd.org>. The Digital Editor is Franz Dejon <franz@iisd.org>. The Operations Manager is Marcela Rojo <marcela@iisd.org> and the On-Line Assistant is Diego Noguera <diego@iisd.org>. The Editor is Pamela S. Chasek, Ph.D. <pam@iisd.org> and the Director of IISD Reporting Services is Langston James "Kimo" Goree VI <kimo@iisd.org>. The Sustaining Donors of the *Bulletin* are the Rockefeller Foundation, the Netherlands Ministry of Foreign Affairs, the Government of Canada (through CIDA), the United States (through USAID), the Swiss Agency for Environment, Forests and Landscape (SAEFL), the United Kingdom (through the Department for International Development - DFID), and the Foreign & Commonwealth Office), the European Commission (DG-ENV), the Danish Ministry of Foreign Affairs, and the Government of Germany (through the German Federal Ministry of Environment - BMU, and the German Federal Ministry of Development Cooperation - BMZ). General Support for the *Bulletin* during 2001 is provided by the Ministries of Foreign Affairs and Environment of Finland, the Government of Australia, the Ministry of Environment and the Ministry of Foreign Affairs of Sweden, the Ministry of Foreign Affairs and Trade of New Zealand, the Ministries of Foreign Affairs and Environment of Norway, Swan International, and the Japan Environment Agency (through the Institute for Global Environmental Strategies - IGES). The *Bulletin* can be contacted by e-mail at <enb@iisd.org> and at tel: +1-212-644-0204; fax: +1-212-644-0206. IISD can be contacted by e-mail at <info@iisd.ca> and at 161 Portage Avenue East, 6th Floor, Winnipeg, Manitoba R3B 0Y4, Canada. The opinions expressed in the *Earth Negotiations Bulletin* are those of the authors and do not necessarily reflect the views of IISD and other funders. Excerpts from the *Earth Negotiations Bulletin* may be used in non-commercial publications only and only with appropriate academic citation. For permission to use this material in commercial publications, contact the Director of IISD Reporting Services. Electronic versions of the *Bulletin* are sent to e-mail distribution lists and can be found on the Linkages WWW server at <http://www.iisd.ca>. The satellite image was taken above Bonn ©2001 The Living Earth, Inc. <http://livingearth.com>. For information on the *Earth Negotiations Bulletin* or to arrange coverage of a meeting, conference or workshop, send e-mail to the Director, IISD Reporting Services at <kimo@iisd.org>.



measures regarding user responsibilities; ensure that IPR support the CBD's objectives; and support development, implementation and monitoring of national ABS policies.

BELGIUM, on behalf of the EU, stressed the need for mutual support among the ABS guidelines and relevant initiatives in other fora. IRAN, on behalf of the G-77/CHINA, highlighted benefit-sharing's significance for developing countries. TOGO, on behalf of the AFRICAN GROUP, said that benefit-sharing is one of the preconditions for biodiversity conservation and that access is closely related to traditional knowledge.

SUB-WORKING GROUP I

The Secretariat introduced background document UNEP/CBD/WG-ABS/1/3. SWG-I Chair Ivars called for comments on the guidelines' key features, as included in Section II of the document. The G-77/CHINA noted that, pending regional consultations, comments would be preliminary. The EUROPEAN COMMUNITY, supported by many, suggested adding two features: flexibility and evolutionary character. The US said that flexibility should address stakeholders of national and regional governments and land stewards. INDONESIA noted that flexibility is contained in the key feature of ease of use. The G-77/CHINA and others preferred addition of transparency as a key feature. CANADA proposed addition of the promotion of biodiversity's conservation and sustainable use, and reflection of the interests and views of stakeholders.

Most delegates highlighted the guidelines' voluntary nature. CAMEROON noted that references to the World Trade Organization and WIPO should not imply constraint to the guidelines' voluntary nature. SOUTH AFRICA highlighted their ease of use. JAPAN and MALAYSIA stressed that they be practical and accommodate different users and uses.

CUBA, MEXICO and others noted that the guidelines should be general and not raise questions regarding national sovereignty, while POLAND said that they should facilitate, not complicate access to genetic resources. PERU said that the guidelines' role should be to assist action by all contracting Parties, both providers and countries within which genetic resources and associated traditional knowledge are used for commercial and scientific purposes. BOLIVIA and BRAZIL supported identification of providers and of IPR features related to traditional knowledge.

On the guidelines' scope, SOUTH AFRICA stressed the need for its well-informed elaboration. MEXICO, with BOLIVIA and COLOMBIA, stressed the need to define the scope to avoid interference with national decision-making. TUNISIA called for clarification of the concept of genetic resources. BRAZIL, JORDAN and PERU drew attention to possible conflicts between the guidelines and national legislation on ABS. MALAYSIA questioned whether the scope should include pre- and post-CBD materials. TANZANIA stressed consistency with other relevant international instruments, and incorporation into national biodiversity action plans and strategies. SWITZERLAND highlighted monitoring of compliance and verification of mechanisms in user countries.

GREENPEACE advocated that ABS principles reflect that some IPR restrict or block access and opposed "monopolistic rights of companies." The ASSOCIATION IXÁ CA VÁÁ FOR INDIGENOUS DEVELOPMENT AND INFORMATION emphasized PIC at the local level, directed by indigenous and local communities and clearly identifying roles of Parties and non-Parties. The WORLD WIDE FUND FOR NATURE said the guidelines present an opportunity to influence support for ABS activities and opposed IPR that restrict access or local rights.

Some delegates called for coordination with SWG-II.

SUB-WORKING GROUP II

SWG-II Chair Medaglia introduced the agenda item on an action plan for capacity building. The Secretariat reviewed documents UNEP/CBD/WG-ABS/1/2 and 3. Chair Medaglia noted that SWG-II could either complete a detailed plan of action or indicate the main elements of such a plan. COLOMBIA preferred development of a plan of action, whereas CANADA, MALAYSIA and the RUSSIAN FEDERATION supported developing a framework with further long-term elaboration.

Regarding priorities, several countries noted ongoing national activities and called for the use of case studies. COLOMBIA highlighted, *inter alia*: contract negotiation; user obligations; scientific and technical cooperation for users and suppliers; use of available information systems; and information handling. ANTIGUA AND BARBUDA, on behalf of the G-77/CHINA, noted technical cooperation and human resources. MADAGASCAR suggested evaluation of existing capacities, training, information and awareness, and regulatory mechanisms that enable monitoring and follow-up to protect local communities' rights.

COSTA RICA, with COLOMBIA, proposed support for national biodiversity and taxonomic assessments. The CZECH REPUBLIC called for inventories of national legislative measures. CANADA supported focusing on the requirements of national focal points, competent authorities and others involved in policy development and national self-assessment processes. HAITI and the UK called for addressing capacity needs in national planning processes. SENEGAL stressed work at the sub-regional level. Several delegates supported access to funding mechanisms, including the GEF, and continued financial support.

The EU, with CANADA, highlighted information sharing under the Clearing-House Mechanism. PALAU suggested ABS agreements be made available on an interactive Internet site. Several delegates suggested the Biosafety Protocol's workshop on capacity building as a model. The EU stated that capacity building should be demand-driven and, with ALGERIA, COLOMBIA and ZAMBIA, called for greater cooperation with complementary initiatives and institutions.

Several delegates called for private sector involvement in capacity-building efforts, particularly in information management, technology transfer, the development of MAT, collaborative research, and work with indigenous and local communities. Numerous delegates noted the importance of capacity building for indigenous and local communities, particularly in information sharing, means to protect traditional knowledge, and participation in decision-making processes. Indigenous representatives highlighted the need for, *inter alia*: identification of best practices for developing national legislation and *sui generis* systems; and recognition of capacity building in supporting indigenous peoples' rights. An indigenous delegate representing the IIFB noted that traditional knowledge systems require an entirely different system for their definition and assessment. ZAMBIA mentioned gender roles and responsibilities, and the role of children as custodians.

Several delegates called for coordination with SWG-I.

IN THE CORRIDORS

A principal question circulating during the day's discussions was the level of detail or outcome expected from the Working Group. While some hoped that significant progress could be made on the guidelines and capacity-building issues given a wealth of existing information, others noted the tendency for such Working Group processes to be more protracted and deliberate in their discussions.

Several participants, highlighting informal consultations on the IU's finalization expected later in the week in Rome, also questioned how a "brain drain" of ABS and IPR experts would affect the Working Group's results.

THINGS TO LOOK FOR

SUB-WORKING GROUP I: SWG-I will meet at 10:00 am in the Plenary hall to continue discussions on the elements for the draft guidelines.

SUB-WORKING GROUP II: SWG-II will meet at 10:00 am in the Wasserwerk Building to discuss approaches other than guidelines to ABS. Expect a Chair's draft on capacity building.

INDIGENOUS PEOPLES, ACCESS AND BENEFIT-SHARING: This press conference will be held at 1:30 pm in Room A-C (location to be confirmed).