

COP/MOP-3 HIGHLIGHTS: WEDNESDAY, 15 MARCH 2006

Delegates to the third meeting of the parties to the Cartagena Protocol on Biosafety (COP/MOP-3) met on Wednesday in working group and contact group sessions. Working Group I (WG-I) considered subsidiary bodies, scientific and technical issues, and draft decisions on: handling, transport, packaging and identification (HTPI); the Biosafety Clearing-House (BCH); and risk assessment and risk management. Working Group II (WG-II) considered draft decisions on assessment and review of implementation, compliance, financial mechanism, capacity building, and monitoring and reporting. A contact group on budget met throughout the day and a contact group on detailed requirements for documentation and identification of living modified organisms for food, feed or processing (Article 18.2(a)) met in the afternoon and evening. A Friends of the Co-Chairs group met in the evening to continue consideration of Article 18.2(a).

WORKING GROUP I

SUBSIDIARY BODIES: The Secretariat introduced documents on subsidiary bodies (UNEP/CBD/BS/COP-MOP/3/11 and INF/7). ZIMBABWE and ZAMBIA favored establishing a scientific subsidiary body; while most delegates cautioned against this, and preferred deferring deliberations suggesting alternative options. MEXICO noted the possibility of benefiting from the CBD Subsidiary Body on Scientific, Technical and Technological Advice; the EU, CHINA, NEW ZEALAND, INDONESIA, CAMBODIA, BELIZE, CUBA, INDIA and PARAGUAY favored creating *ad hoc* technical expert groups (AHTEGs) as needed; and NORWAY, with BURKINA FASO, proposed establishing a time-limited scientific committee to address specific scientific issues. INDONESIA and others urged concentrating efforts on capacity building. A Chair's text will be prepared.

OTHER SCIENTIFIC AND TECHNICAL ISSUES: The Secretariat introduced documents on the rights and obligations of transit States (UNEP/CBD/BS/COP-MOP/3/14 and INF/9). CANADA, supported by COLOMBIA and BRAZIL, called for clarifying the Protocol's provisions on shipments of living modified organisms (LMOs) in transit. The EU disagreed, while NORWAY and THAILAND said a discussion on this issue was premature. PARAGUAY and BRAZIL stressed the need for a clear definition of transit under the Protocol, with CANADA favoring that of the World Custom Organization and NEW ZEALAND that of the World Trade Organization's General Agreement on Tariffs and Trade.

INDIA, NEW ZEALAND, JAPAN and ARGENTINA said LMO transit should not trigger additional documentation requirements for transit States.

HANDLING, TRANSPORT, PACKAGING AND IDENTIFICATION: Article 18.2(b) and (c): Delegates addressed a draft decision on HTPI of LMOs destined for

contained use or intentional introduction into the environment (UNEP/CBD/BS/COP-MOP/3/WG.1/CRP.2). NORWAY suggested references to the right of parties to use a stand-alone document, and to information gathering with a view to its future consideration. The draft decision was approved as amended.

Article 18.3: Delegates addressed a draft decision on standards for HTPI (UNEP/CBD/BS/COP-MOP/3/WG.1/CRP.3), which was approved with an amendment establishing a deadline to submit information on rules, standards and gaps.

BIOSAFETY CLEARING-HOUSE: Delegates addressed a draft decision on the BCH (UNEP/CBD/BS/COP-MOP/3/WG.1/CRP.1). The EU proposed requesting the CBD Executive Secretary to make decisions and other information on LMOs for food, feed or processing (FFPs), risk assessments, and decisions taken under the Advanced Informed Agreement procedure, easily available. He also asked that the external security audit of the central portal be undertaken "with a view to ensuring value for money." The draft decision was approved as amended.

RISK ASSESSMENT AND RISK MANAGEMENT: Delegates addressed a draft decision on risk assessment and management (UNEP/CBD/BS/COP-MOP/3/WG.1/CRP.4). COLOMBIA suggested recalling that Article 26 (Socioeconomic considerations) plays a role in the decision-making process. SOUTH AFRICA said that additional guidance may be needed on long-term monitoring of LMOs. The draft decision was approved with these and other minor amendments. NORWAY announced its decision to convene, with Canada, an AHTEG meeting before COP/MOP-4.

WORKING GROUP II

ASSESSMENT AND REVIEW: WG-II Chair Rey Santos introduced a draft decision on assessment and review, which most parties supported (UNEP/CBD/COP-MOP/3/WG.2/CRP.3). On the review of implementation, NEW ZEALAND proposed adding, in the submission requests, suggestions on the modalities and extent of the evaluation. JAPAN said the process should be as simple as possible at this stage, with the EU adding that it should also be comprehensive and involve other stakeholders such as the private sector in consultations. AFRICA proposed having a regionally-balanced expert group assisting the Executive Secretary in synthesizing views on the Protocol's effectiveness, but the EU, MEXICO and SWITZERLAND opposed. Delegates agreed to request the Bureau to assist the CBD Executive Secretary in this endeavor.

On the report of the Compliance Committee, delegates agreed on suggestions by New Zealand and the EU that the Committee report be on compliance issues, rather than on difficulties and weaknesses in implementing the Protocol, according to Decision BS-1/7 (procedures and mechanisms on compliance). COLOMBIA highlighted that the review of implementation under the Protocol's Article 35 (Assessment and review) and the report on compliance are two separate and distinct issues.

In the afternoon, WG-II Chair Rey Santos presented a revised draft decision (UNEP/CBD/COP-MOP/3/WG.2/CRP.3/Rev.1), which was adopted, with an additional preambular paragraph, suggested by AFRICA, noting that lack of implementation may not be linked to problems with the Protocol, but to lack of capacity to implement it.

COMPLIANCE: Delegates discussed a draft decision on compliance (UNEP/CBD/BS/COP-MOP/3/2, Annex). On the voting procedures, the EU and AFRICA strongly suggested accepting a qualified majority voting as a last resort, while BRAZIL and NEW ZEALAND favored the consensus decision-making rule. CANADA cautioned that progress on this issue is not likely at this meeting. The EU emphasized the need for an effective compliance mechanism, while BRAZIL highlighted that the compliance mechanism should be facilitative and cooperative. CANADA noted that rules on conflicts of interest should prevent members from voting in matters concerning their own country.

On cases of repeated non-compliance, JAPAN and ZAMBIA proposed examining practice under other agreements. CHINA proposed differentiated consequences for non-compliance, noting that in developing countries non-compliance may result from lack of capacity. NEW ZEALAND emphasized that there are no practical examples of repeated non-compliance and these discussions are premature. CANADA proposed considering this issue in the context of Article 35 (Assessment and review). WG-II Chair Rey Santos will prepare a draft decision.

FINANCIAL MECHANISM: Delegates agreed, after discussions, to use a draft decision presented by Africa as a basis for discussions, and WG-II Chair Rey Santos invited submissions on the African draft.

DOMINICA, supported by KIRIBATI, said the GEF's new Resource Allocation Framework (RAF) has several negative implications for small island developing States (SIDS) and requested including a reference to SIDS and countries with economies in transition. EL SALVADOR requested ensuring continuity of GEF projects on national biosafety frameworks that are already in progress, while SOUTH AFRICA expressed concerns that country allocations may be too small for adequately implementing these frameworks. The GEF clarified that all countries, even those without individual allocations, would receive funds for biodiversity (contingent on the next replenishment sustaining previous levels of funding), ranging from US\$ 1 million to US\$ 3.4 million. Countries with individual allocations could potentially get more funds for biosafety, depending on their priorities.

The EU, supported by SWITZERLAND, suggested: recognizing in the preamble that the provision of funds for all countries, including those without a specific country allocation, to acquire basic capacities to implement the Protocol should be outside RAF's criteria on biodiversity; and requesting GEF to allocate resources for countries to develop their basic capacity to operationalize their national systems for handling LMOs in a safe manner, based on country needs. KIRIBATI proposed resource allocation on the basis of country needs and priorities.

COLOMBIA, with CHINA, proposed including improvements in infrastructure capacity to create or equip reference laboratories. NORWAY suggested adding training on the use of detection techniques for identifying LMOs, and MEXICO proposed a new paragraph on support for the BCH. CHINA proposed including technology transfer on risk assessment, risk management, and LMO monitoring and segregation. WG-II Chair Rey Santos will prepare a revised draft.

CAPACITY BUILDING: WG-II Chair Rey Santos introduced a revised draft decision on capacity building (UNEP/CBD/BS/COP-MOP/3/WG.2/CRP.1/Rev.1). AFRICA proposed that integrating biosafety into Poverty Reduction Strategy Papers should take place when they are available and scheduled for revision. CUBA proposed adding a reference to include biosafety into goals that have been accepted internationally, including the Millennium Development Goals. Delegates adopted the decision with these and other minor changes.

Roster of Experts: WG-II Chair Rey Santos introduced a revised draft decision on the roster of experts (UNEP/CBD/BS/COP-MOP/3/WG.2/CRP.4/Rev.1), which was adopted without amendment.

MONITORING AND REPORTING: WG-II Chair Rey Santos introduced, and delegates adopted, a revised draft decision (UNEP/CBD/BS/COP-MOP/3/WG.2/CRP.2/Rev.1), with minor amendments, noting that the section on national reporting is linked to the pending decision on COP/MOP frequency.

CONTACT GROUP ON BUDGET

The Secretariat presented three options for the Protocol's 2007-2008 core budget: a 0% real growth; a 5% nominal growth; and a budget required for implementing the COP/MOP planned activities, which delegates agreed to use as basis for discussion. Participants also addressed the appropriate percentage for the capital reserve taking into account the Secretariat's needs. In the afternoon, participants inquired about division of costs between the Convention and the Protocol and the budget increase.

CONTACT GROUP ON ARTICLE 18.2(A)

Delegates resumed work on the basis of the Brazilian proposal introduced on Tuesday. Following questions, Brazil clarified a number of issues, including: the link between commercial production in the country of origin and authorization in the country of import under Article 11 (Procedure for LMO-FFPs) as conditions for the documentation to state that a shipment "contains" LMOs; identity preservation in production systems, explaining it covers a procedure for management of production, transport, processing and distribution of a product, with a view to ensuring its integrity and purity with respect to specific characteristics; and LMO-FFPs "of the same species," noting it refers to different varieties or transformation events.

Participants then presented suggestions to include, *inter alia*: documentation stating that a shipment contains no adventitious LMOs unauthorized in the importing country; an operational paragraph noting that the requirements of Article 18.2(a) do not apply to the adventitious presence of LMOs; continued provisions for "may contain" documentation; a request for exporting parties to submit to the BCH the transformation event code of LMOs that are commercially produced for each planting cycle; a provision to review, by 2010, experiences gained with the implementation of the documentation requirements; the use of stand-alone documents; and a preambular reference to taking into account risks to human health. The deletion of paragraphs related to capacity building was also suggested.

In the evening, the contact group reconvened to review the revised text and a Friends of the Co-Chairs group was established to continue negotiations into the night.

IN THE CORRIDORS

Both working groups swiftly breezed through the bulk of their agenda, predictably leaving the thorniest issues of documentation for LMO-FFPs (Article 18.2(a)), compliance and budget to be finalized during the last two days. Deliberations in the contact group on Article 18.2(a) were arduous, with numerous proposals on adventitious presence, thresholds, and documentation requirements practically canceling each other out.

Some disheartened delegates wondered whether the highly technical requirements, not only to test compliance with potential thresholds, but also to develop risk assessment and regulatory frameworks, might in the end suffer from the threat of resource constraints. After elaborate discussions on the financial mechanism, a few noted it was clear that pending the new GEF replenishment, funds may not be sufficient for developing countries to implement the Protocol. Those optimistic by nature hoped that news on the appointment of Achim Steiner, currently head of the IUCN-World Conservation Union, as UNEP's next Executive Director will inject new vigor to the environmental community and help mobilize resources in this direction.