

ABS 5 HIGHLIGHTS:

THURSDAY, 11 OCTOBER 2007

Delegates to the fifth meeting of the *Ad Hoc* Open-ended Working Group on Access and Benefit-sharing (ABS) of the Convention on Biological Diversity (CBD) met in plenary in the morning and afternoon and also held discussions in regional groups. In the morning, delegates considered capacity building, compliance, and indicators for ABS in the context of an international regime on ABS. In the afternoon, delegates convened in regional groups to consider two informal documents prepared by the Co-Chairs: a compendium of proposals made at ABS 5 and a document comprising the Co-Chairs' reflections on progress made by ABS 5. Delegates then reconvened in plenary to discuss the documents and the organization of work on ABS prior to COP 9.

INTERNATIONAL REGIME ON ABS

CAPACITY BUILDING: PERU, supported by COSTA RICA, called for strengthening capacity building and technology transfer, especially with respect to developing countries and countries with economies in transition. EAST TIMOR called for financial assistance for education on ABS-related issues to enable it to fulfill its obligations under the CBD. CANADA outlined its efforts both supporting ABS capacity-building initiatives in developing countries and developing domestic ABS measures. COSTA RICA observed that the international regime should include measures that ensure capacity building at the national level. Lamenting the absence of a reference to indigenous peoples under this item, the NORTH AMERICAN INDIGENOUS CAUCUS called for the international regime to address capacity building with a special focus on indigenous peoples. BUKINA FASO noted that effective implementation of an international ABS regime requires the involvement of indigenous and local communities. The ASIAN INDIGENOUS CAUCUS called for elements of the international regime to be developed and implemented in accordance with CBD Article 8(j), and Article 31 of the UN Declaration on the Rights of

Indigenous Peoples (UNDRIP) regarding the right of indigenous peoples to maintain, control and protect their cultural heritage and traditional knowledge.

INDICATORS FOR ABS: Namibia, for the AFRICAN GROUP, supported by Portugal, for the EU, said that detailed discussion of ABS indicators would be premature since the main elements of an international regime have not yet been elaborated. He proposed the establishment of a small technical expert group during COP 9 to consider this issue. The EU added that the number of indicators should be limited. While noting that the development of indicators is currently not a priority, AUSTRALIA emphasized their development is not necessarily contingent on the development of any international regime. CANADA said indicators should be process and outcome-oriented and address both benefits and access.

COMPLIANCE: Internationally recognized certificate of source/origin/legal provenance: ARGENTINA clarified its position regarding the certificate stating that a certificate should be cost-effective and avoid, rather than promote, traceability.

REFLECTIONS ON CONVERGENCE AND COMPENDIUM OF PROPOSALS

On Thursday afternoon, Co-Chair Hodges introduced two informal documents: a compendium of proposals made at ABS 5 and a text entitled "Reflections on progress made by the Working Group on ABS at its Fifth Meeting." He explained that the latter document contained the joint views of the Co-Chairs on areas of convergence and concrete policy options. Regarding the compendium document, he noted that it is not comprehensive, but rather consists of the key proposals made by participants. While Co-Chair Hodges suggested appending these documents to the official meeting report, he noted that they should not be considered as a basis for negotiations.

Co-Chair Casas added that ABS 6 would accordingly have before it: all official ABS 5 documents, the ABS 5 report including the informal documents tabled by the Co-Chairs, and submissions provided by parties and stakeholders in

the intersessional period. He said that ABS 6 should engage in serious negotiations and decide how to present the recommendations on the international ABS regime to COP 9.

The EU welcomed the Co-Chairs' suggested organization of work prior to COP 9, including the invitation to make written submissions. Chile, on behalf of GRULAC, suggested considering at ABS 6 the contents of the compendium document, the Annex to Decision VIII/4 A (international regime on ABS) and any contributions submitted during the intersessional period. Malaysia, for the LMMC, said that both documents tabled by the Co-Chairs support the elaboration of the regime. He suggested that parties submit proposals prior to ABS 6 and that these be merged with the proposals contained in the compendium and the Annex. He also observed that parties remain divided on some of the items listed as areas of convergence in the reflections document.

AUSTRALIA stated that parties are travelling down two different roads, one leading to an international regime, another towards additional measures to support national implementation. On the Co-Chairs' reflections document, he cautioned that it demonstrates a higher degree of convergence than actually exists among parties and argued against appending it to the report of the meeting, preferring instead to append parties' written submissions. He also said that he could not accept either of the Co-Chairs' documents as a basis for work during ABS 6.

The AFRICAN GROUP reiterated their commitment to negotiating an international regime and stressed the importance of sending a signal to the world that the ABS Working Group is making progress towards fulfilling its mandate. Emphasizing the COP 8 mandate and deadline to complete the negotiation of the regime by 2010, BRAZIL encouraged parties to continue elaborating and negotiating an international regime. ARGENTINA suggested classifying the Co-Chairs' documents as information documents for ABS 6.

NEW ZEALAND emphasized that it could not accept a proposal to update the Annex with the Co-Chairs' documents provided since the Annex had not been sufficiently discussed, and stressed that conclusions drawn in the reflections document go beyond what it considers to be areas of convergence. CANADA observed that the compendium document should be seen as a compilation of comments provided by parties. He noted however, that it excluded some parties' submissions and that he could therefore not support its use at ABS 6. He noted that the reflection document does not capture all the areas of divergence, such as minimum standards for ABS, derivatives and misappropriation.

NORWAY and BRAZIL reminded delegates of the mandate and expectations to deliver results before 2010, adding that the outcomes from ABS 5 including the Co-Chairs' documents are valuable inputs for ABS 6. TANZANIA noted the need for a frame of reference for future work, as provided in the Co-Chairs' documents.

The EU urged delegates not to negotiate the content of the Co-Chairs' documents, but to see them as a roadmap for determining elements of a regime by COP 9. Reminding delegates that the documents do not contain elements for a draft decision, NIGERIA encouraged delegates to make submissions in the intersessional period to achieve clarity by ABS 6. ETHIOPIA proposed systematically considering the different areas of convergence, identifying the extent of convergence, and then working on the areas where convergence has not yet been achieved.

JAPAN expressed reservations concerning the Co-Chairs' documents, stating they oversimplify the positions and are therefore unacceptable. ECUADOR, urged delegates to reflect on the underlying rationale for the regime, to summon the spirit of cooperation and to make proposals on the way forward. Croatia, for the CENTRAL AND EASTERN EUROPEAN COUNTRIES, suggested that the documents be forwarded to ABS 6 for consideration.

The ARCTIC INDIGENOUS CAUCUS welcomed proposals in the documents underscoring the need for free prior informed consent of indigenous peoples and a reference to the UNDRIP. The NORTH AMERICAN INDIGENOUS CAUCUS supported forwarding the documents to ABS 6 and suggested that the ABS 5 report be made available for the Working Group on Article 8(j). MALAYSIA lamented some parties' lack of willingness to enter into substantive negotiations of an international ABS regime.

IN THE CORRIDORS

After a long procedural discussion on the status of the documents tabled by the Co-Chairs, huddles of delegates lingered in the corridors, with some reviewing the documents' contents, and others searching for solutions to what they perceived as the major stumbling blocks on the way towards an accepted basis for negotiation. According to one group of delegates these stumbling blocks include the lack of definitions of key elements of the regime, such as derivatives, misappropriation, or even the very question of what the overarching rationale for an international regime would be.

Another group maintained that the documents merely restate known positions, which will not help to overcome some parties' reluctance to engage in substantive negotiations. Rushing from one regional group meeting to another, one delegate commented in passing that he had not yet found the magical solution though he still believed in magic.

One participant summarized the situation, noting that the biggest challenge on the road to COP 9 is identifying a starting point for negotiations, which, in his view, may require some parties to relax some of their rigid demands, while at the same time ensuring their commitment to the Working Group's mandate.