

SUMMARY OF THE FIFTH MEETING OF THE WORKING GROUP ON ACCESS AND BENEFIT-SHARING AND THE FIFTH MEETING OF THE WORKING GROUP ON ARTICLE 8(J) AND RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERSITY: 8-19 OCTOBER 2007

The fifth meeting of the Working Group on Access and Benefit-Sharing (ABS WG 5) and the fifth meeting of the Working Group on Article 8(j) (Article 8(j) WG 5) and related provisions of the Convention on Biological Diversity were held from 8-19 October 2007, in Montreal, Canada.

The fifth meeting of the ABS Working Group represents the first half of a single session that will be completed at the Working Group's sixth session to be held from 21-25 January 2008 in Geneva, Switzerland. ABS WG 5 considered substantive elements of an international ABS regime including: access to genetic resources; fair and equitable sharing of benefits arising from their use; measures to support compliance with prior informed consent and mutually agreed terms; an internationally recognized certificate of origin/source/legal provenance of genetic resources; traditional knowledge and genetic resources in the context of ABS; capacity building; and indicators for ABS. ABS WG 5 adopted a report stating that the Co-Chairs' notes on proposals made by delegates during the meeting will be circulated as information documents together with further submissions by parties and stakeholders prior to ABS WG 6.

The ABS WG 5 summary report contains sections summarizing the discussion on each of the substantive items, followed by a section summarizing the debate on the Co-Chairs' documents and the meeting's outcomes.

Article 8(j) WG 5 adopted recommendations on: the UN Permanent Forum on Indigenous Issues; indicators for traditional knowledge (TK); the progress report on implementation of the Article 8(j) work programme; the composite report on the status and trends of TK; the TK action plan; elements for the development of *sui generis* systems for TK protection; and an

ethical code of conduct. Delegates did not reach agreement on a recommendation on inputs by the Article 8(j) WG to the negotiation of an international ABS regime.

After the two weeks, participants were divided in their evaluations of the meetings' outcomes. With regard to ABS WG 5, several expressed concern about the absence of agreement on the process for the negotiation of the international regime. Many others however noted that the meeting's main outcome was an improved understanding of parties' interests and concerns regarding such a regime. Some of the undercurrents emanating from the ABS WG carried over into Article 8(j) WG 5 and had a bearing on the deliberation of the agenda item on collaboration between the two WGs and other substantive items, such as *sui generis* systems. Regarding substantial outputs of the Article 8(j) WG, many participants, particularly indigenous representatives, expressed their disappointment, noting that some recommendations fell behind previous COP decisions.

A BRIEF HISTORY OF THE CBD, ARTICLE 8(J), AND ACCESS AND BENEFIT-SHARING

The Convention on Biological Diversity (CBD), negotiated under the auspices of the UN Environment Programme (UNEP), was opened for signature on 5 June 1992, and entered into

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force on 29 December 1993. There are currently 190 parties to the Convention, which aims to promote the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources.

Access to genetic resources, including facilitating access, prior informed consent (PIC), mutually agreed terms (MAT) and benefit-sharing are addressed by CBD Article 15, with related articles referring to technology access and transfer (Article 16.3), and handling and distribution of benefits of biotechnology (Article 19).

The Convention's work on ABS was initiated at COP 4 (May 1998, Bratislava, Slovakia) when parties decided to establish a regionally-balanced expert panel on ABS, whose composition and agenda were discussed at an intersessional meeting on the Operations of the Convention (June 1999, Montreal, Canada). The first meeting of the expert panel on ABS (October 1999, San José, Costa Rica) developed a set of recommendations including general conclusions and specific points on PIC, MAT, information needs and capacity building. The second meeting (March 2001, Montreal, Canada) addressed user and provider experience in ABS processes; approaches for stakeholder involvement; and complementary 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, MAT, participation of stakeholders, benefit-sharing mechanisms, and the preservation of TK.

Article 8(j) of the CBD states that its parties will, subject to national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biodiversity; promote their wider application with the approval and involvement of knowledge-holders; and encourage the equitable sharing of benefits arising from the utilization of such knowledge. Related provisions address the customary use of biological resources in accordance with traditional cultural practices (Article 10(c)), information exchange (Article 17.2) and cooperation in the development and use of technologies (Article 18.4).

The Convention's work on the implementation of Article 8(j) commenced at COP 3 (November 1996, Buenos Aires, Argentina) calling for an intersessional workshop to advance work on implementation of Article 8(j). The workshop was held in November 1997 in Madrid, Spain, and suggested terms of reference for an open-ended working group on Article 8(j), which were later adopted by COP 4. The first meeting of the Working Group on Article 8(j) (March 2000, Seville, Spain) considered elements for a programme of work on Article 8(j), and also addressed forms of protection for TK. COP 5 extended the Working Group's mandate to review progress in implementation; explored ways for increasing participation; and adopted a programme of work on Article 8(j), comprising elements and tasks on participatory mechanisms, status and trends of TK, traditional cultural practices for conservation and sustainable use, benefit-sharing, exchange and dissemination of information, and monitoring and legal elements.

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

ARTICLE 8(J) WG 2: At its second meeting (February 2002, Montreal, Canada), the Working Group on Article 8(j) considered: an outline for the composite report on the status and trends of TK; recommendations for the conduct of cultural, environmental and social impact assessments; participatory mechanisms; and the effectiveness of existing instruments impacting the protection of TK, particularly IPRs.

COP 6: At its sixth meeting (April 2002, The Hague, the Netherlands), the COP adopted the Bonn Guidelines on ABS and also considered: other approaches, including capacity building; 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 (WTO). The COP identified actions to be taken with respect to the integration of Article 8(j) into CBD thematic work programmes, and adopted the outline of the composite report.

WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT: In the Johannesburg Plan of Implementation, the UN World Summit on Sustainable Development (September 2002, Johannesburg, South Africa) called for negotiation, within the CBD framework, of an international regime for benefit-sharing.

MYPOW: Following the call of the 2002 World Summit, the Open-ended Intersessional Meeting on the Multi-Year Programme of Work for the CBD COP up to 2010 (March 2003, Montreal, Canada) recommended that the ABS Working Group consider the process, nature, scope, elements and modalities of an international regime on ABS.

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

ARTICLE 8(J) WG 3: At its third meeting (December 2003, Montreal, Canada), the Working Group considered: recommendations from the UN Permanent Forum on Indigenous Issues (UNPFII); potential socioeconomic impacts of genetic use restriction technologies (GURTs); elements for *sui generis* systems for the protection of TK; participatory mechanisms; the Akwé: Kon guidelines for the conduct of cultural, environmental and social impact assessments; and the composite report.

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 negotiate an international regime on ABS and agreed on the terms of reference for such a negotiation. The COP adopted the Akwé: Kon Guidelines and a series of decisions regarding participatory mechanisms.

ABS WG 3: At its third meeting (February 2005, Bangkok, Thailand), the Working Group initiated negotiations on an international regime on ABS. It also addressed: additional

approaches to complement the Bonn Guidelines, such as an international certificate of origin/source/legal provenance; measures to ensure compliance with PIC and MAT; and options for indicators for ABS.

ARTICLE 8(J) WG 4: At its fourth meeting (January 2006, Granada, Spain), the Working Group considered, among other items: collaboration with the ABS Working Group; participatory mechanisms; elements for an ethical code of conduct for the respect of the cultural and intellectual heritage of indigenous and local communities; GURTs; and the composite report.

ABS WG 4: At its fourth meeting (February 2006, Granada, Spain), the Working Group considered: a draft text for the negotiation of the international ABS regime; additional approaches to complement the Bonn Guidelines, including an international certificate of origin/source/legal provenance; and measures to support compliance with PIC and MAT.

COP 8: At its eighth meeting (March 2006, Curitiba, Brazil), the COP decided to transmit the ABS WG 4 outcome to the Working Group's fifth meeting, as well as, among other items, the outcomes of the an *Ad Hoc* Technical Expert Group on a certificate of origin/source/legal provenance for the further elaboration of an international ABS regime. The COP requested the Article 8(j) Working Group to contribute to the mandate of the ABS Working Group and adopted a number of decisions, including on indigenous participatory mechanisms and *sui generis* systems for the protection of TK.

ABS WG 5 REPORT

On Monday, 8 October 2007, Co-Chairs Timothy Hodges (Canada) and Fernando Casas (Colombia) opened the meeting, recalling the Working Group's mandate to complete negotiations on an international ABS regime before COP 10. Co-Chair Hodges said adopting a regime is essential for the Convention's further development and implementation. Co-Chair Casas explained that ABS WG 5 and 6 constitute a single session and that each agenda item will only be considered once. Noting the parties' shared concern about global biodiversity loss, CBD Executive Secretary Ahmed Djoghlaif said the international ABS regime will be a powerful tool for achieving sustainable development and the 2010 target to significantly reduce biodiversity loss.

Switzerland reported on the first International Technical Conference on Animal Genetic Resources for Food and Agriculture, which took place in Interlaken, Switzerland, in September 2007. He noted the successful conclusion of the meeting, which launched the Report on the State of the World's Animal Genetic Resources and adopted the Global Plan of Action and the Interlaken Declaration on Animal Genetic Resources. He observed that access and benefit-sharing of genetic resources provides an incentive for sustainable use. Cameroon presented a wooden sculpture depicting the country's biological and cultural diversity to the CBD Museum of Nature and Culture.

Delegates then adopted the meeting's agenda and organization of work (UNEP/CBD/WG-ABS/5/1/Add.1/Rev.1) without amendment and elected Mary Fosi (Cameroon) as the meeting's rapporteur.

Delegates' opening statements focused on an international regime on ABS. Portugal, on behalf of the European Union (EU), emphasized the EU's commitment to completing negotiations on an international ABS regime before COP 10. Namibia, for the African Group, called on delegations to review their negotiating positions in light of current realities, suggesting that some delegations' positions may require a paradigm shift. Micronesia, for the Pacific Small Island Developing States (SIDS), proposed, among other items, including non-commercial uses of biodiversity and derivatives in the regime's scope. Switzerland recalled the work of the World Intellectual Property Organization (WIPO) on specifying the origin of genetic resources in patents.

IUCN recommended that ABS WG 5 establish synergies with other international regimes, identify mechanisms for user-friendly information dissemination, and ensure that gender is fully integrated into the international regime. The International Indigenous Forum on Biodiversity (IIFB) and the Indigenous Women's Biodiversity Network (IWBN) stressed that without recognition of indigenous rights, especially PIC, there can be no access. IIFB recalled that Article 18 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms indigenous peoples' right to participate in decision making in matters that affect them. The IWBN also reaffirmed that women are the holders and transmitters of TK between generations and demanded respect, recognition and protection of this knowledge.

The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) noted that it has operationalized ABS and offered to share its technical experience.

INTERNATIONAL REGIME ON ABS

Throughout the week, delegates considered elements of an international regime on ABS. On Monday, Co-Chair Hodges introduced the Annex to COP Decision VIII/4 A (international regime on access and benefit-sharing) that was transmitted to ABS WG 5 by COP 8 (UNEP/CBD/WG-ABS/5/2) noting the objective of transforming the range of views contained in the Annex into convergent proposals and options. The discussion on Monday was centered on a procedural debate concerning the status of the Annex. Australia, opposed by many, expressed unwillingness to enter into detailed textual negotiations based on the Annex, noting that his delegation could not accept any outcome in this regard. The Co-Chairs encouraged participants to make proposals and identify areas of convergence. Another procedural debate resurfaced during the introduction of two informal documents by the Co-Chairs, one referred to as the Co-Chairs' notes on proposals made during ABS WG 5, and another document referred to as the Co-Chairs' reflections on progress made by ABS WG 5. Delegates debated the status of these documents and the outcome of the meeting as a whole, but could not reach agreement on forwarding any official document to ABS WG 6. This section summarizes the discussion on each of the substantive items. The following section summarizes the procedural debate and the outcome document.

FAIR AND EQUITABLE BENEFIT-SHARING: This agenda item was discussed in plenary on Monday and Tuesday. Debate centered on ways to ensure fair and equitable benefit-sharing in an international ABS regime; developing standardized

material transfer agreements (MTAs); and stipulating minimum conditions for fair and equitable benefit-sharing in national legislation.

Brazil proposed that the international regime focus on fair and equitable benefit-sharing based on PIC and MAT. The African Group proposed making access, including to derivatives, subject to: the minimum conditions for benefit-sharing; establishing a multilateral benefit-sharing mechanism for transboundary genetic resources; as well as ensuring the participation of indigenous and local communities in the negotiation of MAT. Malaysia, for the Like-Minded Megadiverse Countries (LMMC), explained that an international regime must include minimum benefit-sharing standards to prevent eroding benefits in cases where countries lack capacity to implement national ABS legislation, noting, however, that these provisions should not compromise the sovereign right to determine ABS measures. The Philippines explained that international standards are required to overcome the inadequacy of national legislation in many countries.

Several parties preferred reflecting minimum standards in domestic legislation while others also advocated for developing model contracts and MTAs. Australia suggested providing draft clauses that both users and providers could use. Switzerland advocated a set of standards that would allow for flexibility and case-by-case approaches to benefit-sharing. In order to provide both a basis for progressing on negotiations for an international regime, as well as terms and mechanisms to address compliance issues, the LMMC, supported by the Philippines, later proposed that national legislation stipulate minimum conditions for fair and equitable sharing of benefits arising out of the use of genetic resources and their derivatives and/or associated TK based on PIC and MAT. The LMMC then proposed language specifying that conditions for the equitable sharing of benefits arising out of the use of TK associated with genetic resources and derivatives be stipulated through MAT in accordance with national legislation either between users and indigenous communities or users and a competent national authority. Mexico noted the importance of compliance with domestic mechanisms for PIC and suggested tax incentives as a possible mechanism for promoting benefit-sharing. New Zealand, Australia and Canada highlighted the need for any international regime to provide flexibility to countries when drafting national ABS legislation.

ACCESS TO GENETIC RESOURCES: This item was discussed in plenary on Wednesday. Access was discussed in the context of national sovereignty. Brazil noted the need to enhance international action and coordination in establishing the regime while respecting the sovereign rights of states. The LMMC, supported by the African Group, maintained that states have sovereign rights over their own genetic resources and derivatives and correspondingly the authority to determine access. The EU explained how an international regime would facilitate implementation of ABS by overcoming legal uncertainty and enhancing compliance with PIC. Australia emphasized that any ABS system should provide legal certainty, administrative simplicity and be cost effective and also supported minimum administrative and procedural standards for access, noting that national property rights should not be undermined.

Costa Rica emphasized that the international regime should provide guidance on governing access in the absence of national provisions. Canada highlighted tools relating to access, including model contracts and sectoral approaches that address standardization and minimum requirements. The African Group, with Brazil, suggested categorizing research based on the stated intent of the researcher, taking into account that this may change over time. Switzerland and Australia called for a distinction between scientific and commercial research purposes, with Switzerland proposing an accelerated process for the former and a mechanism to provide traceability of the resources.

Thailand proposed a monitoring mechanism requiring parties to report access applications submitted to competent national authorities. Haiti and Grenada highlighted problems facing many countries regarding control and regulation of access and called for a holistic approach to implementing PIC and MAT.

COMPLIANCE: Delegates discussed the three sub-items on compliance on Tuesday and Wednesday in plenary. On Tuesday, delegates made general statements on compliance with several calling for developing specific compliance mechanisms. The African Group noted that effectiveness of compliance measures will determine the effectiveness of the regime, and called for a clear identification of actions that constitute misappropriation. Peru called for a monitoring mechanism to ensure compliance, and Brazil said the regime should provide remedies and sanctions for breaches. The Latin American Indigenous Caucus said that any international regime should have provisions for the settlement of disputes arising over transboundary genetic resources.

Others expressed reservations, including Argentina who said that it was not in a position to comment on its preferred compliance mechanisms prior to the negotiation of the regime's components, including whether it will be legally binding. The American Bioindustry Alliance outlined concerns regarding additional mandatory disclosure obligations, conflicting claims over genetic resources and TK, and non-discrimination in terms of access and compliance.

Measures to support compliance with PIC and MAT: On Tuesday, delegates discussed measures to support compliance with PIC and MAT and proposed developing a variety of national and international measures and mechanisms to support PIC and MAT. The LMMC, Pakistan and Cuba requested strict compliance and disclosure of source and country of origin and evidence that PIC and benefit-sharing requirements have been met in patent applications. The African Group requested that the regime include measures to ensure that PIC is obtained from the appropriate provider, with Thailand requesting mandatory PIC, and Norway stressing the importance of user measures. Brazil and Pakistan added that the international regime should ensure that parties enact national legislation to facilitate implementation, and take measures to combat misappropriation. Cuba suggested a clearing-house mechanism to monitor compliance. India noted that national legislation must also provide remedies for non-compliance. Australia, Canada and the US supported contract-based compliance systems, with Australia supporting the development of model contracts.

Other delegations noted existing mechanisms to support compliance with PIC and MAT. New Zealand stressed the need for awareness-raising about existing tools and options to ensure compliance with PIC and MAT. The EU emphasized that ABS under MAT is already addressed through contracts under private international law, and that model MTAs could enhance compliance, adding that a definition of misappropriation is still needed.

Some parties highlighted relevant discussions and linkages within other international regimes with Norway and Thailand pointing to their submissions on disclosure of origin to the WTO TRIPS Council. Australia, Canada, Japan and the US, opposed by Brazil and Haiti, urged that disclosure requirements in patent applications be addressed under WIPO or the WTO. WIPO reported on its work relating to intellectual property and genetic resources and traditional resources.

A number of regional indigenous caucuses advocated developing mechanisms to support PIC and MAT with some requesting independent legal and technical advice for negotiating PIC and MAT and others stressing that PIC is subject to indigenous customary law and international human rights law.

International certificate of origin/source/legal provenance: Delegates discussed the international certificate of origin/source/legal provenance on Tuesday and Wednesday. While many delegates welcomed the report of the expert meeting on an internationally recognized certificate of origin/source/legal provenance (UNEP/CBD/WG-ABS/5/7), they diverged on a number of issues relating to the nature of the certificate, its general attributes and its specific functionality.

On the question of whether a certificate should be mandatory, the African Group and the LMMC stressed that the certificate of origin must be binding, and Costa Rica added that a certificate of source should verify compliance with PIC and MAT. Ukraine also supported a mandatory certificate, for both providers and users, with Peru adding that national legal systems do not always provide for effective ABS. In contrast, Australia said the certificate should be issued on a voluntary basis and implemented at the national level to reflect compliance with domestic law. The American Bioindustry Alliance opposed any certificate system involving mandatory disclosure requirements in patent applications.

On the general nature of a certificate many delegates noted that certificates should complement, not replace, underlying contracts between users and providers. Other issues addressed included: identifying the source of genetic resources; ensuring compliance with PIC; facilitating ABS especially when the use of genetic resources occurs outside the provider country; and transparency. Argentina underlined the need for certificates to avoid traceability and, with Japan and Australia, maintained that certificates must be cost effective. The Consultative Group on International Agricultural Research noted that the standard MTA under the ITPGRFA fulfills the function of a certificate of origin and could serve as a model.

On the specific function of the certificate, the EU preferred a certificate of source that would provide proof that genetic resources had been obtained in accordance with national provisions. The LMMC said that it should be internationally recognized, comply with national laws, and include both

consequences for infringement and enforcement mechanisms. Others, such as Australia and Colombia, proposed developing a certificate of compliance as procedural proof that the access requirements under national legislation have been met. Brazil suggested establishing national authorities in provider and user countries to monitor use of genetic resources and TK and, with Thailand, suggested distinguishing them by unique serial numbers.

The African Group focused on the ambiguous nature of a certificate, requesting clarification on who will be required to obtain certificates, when presentation is required, monitoring arrangements, and sanctions for non-compliance.

Many indigenous regional caucuses insisted that indigenous PIC must be obtained and that any certificate must cover TK. The North American Indigenous Caucus added that a certificate system must recognize indigenous customary laws and resource rights. IUCN recommended renewing the technical expert group's mandate and developing and testing a model certificate.

Monitoring, enforcement and dispute settlement: Delegates discussed monitoring, enforcement and dispute settlement on Wednesday.

Some parties were reluctant to begin discussions on this issue, including the EU who preferred postponing discussions until the main elements of an international regime have been identified. Australia challenged delegations to demonstrate why existing enforcement and dispute settlement mechanisms under private international law are insufficient to ensure compliance, and raised concerns about defining misappropriation. Canada, supporting a contractual approach, noted that national laws provide effective remedies.

Other delegates, including the African Group, Pacific SIDS, and some members of the LMMC and the Group of 77 and China (G-77/China), stressed the importance of measures for leveling the playing field, promoting access to justice, facilitating access to arbitration and remedial mechanisms for provider countries, and determining what constitutes misappropriation.

TRADITIONAL KNOWLEDGE AND GENETIC RESOURCES: Delegates discussed this item on Wednesday. Many delegates stressed the need to define links between ABS and the protection of TK and to develop measures to prevent users from circumventing provider countries' national access legislation. Some delegates called for measures to prevent biopiracy and for special protection for indigenous peoples rather than obliging them to prove misappropriation. The North American Indigenous Caucus called for full and effective participation of indigenous peoples in monitoring and developing ABS mechanisms. The Arctic Indigenous Caucus called for the inclusion of indigenous customary law; while the Pacific Indigenous Caucus emphasized that it was premature to explore a regime on ABS before issues relating to TK have been resolved. The United Nations Permanent Forum on Indigenous Issues (UNPFII) stated that the development of a strong ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities by the Article 8(j) Working Group can assist in developing an international ABS regime.

The EU, Japan and Canada stated that WIPO should be the primary forum for discussions on IPR aspects of TK protection and, with Mexico, called for collaboration between the ABS

and Article 8(j) Working Groups. Australia and New Zealand suggested inviting the Article 8(j) Working Group to develop guidelines on the integration of TK into national ABS legislation.

The African Group, with the LMMC, stressed the need to respect knowledge holders' PIC and encouraged parties to adopt national *sui generis* systems for the protection of TK. Ecuador called for regulation to ensure compliance with PIC and MAT when granting access to TK. The African Group and the EU suggested taking into account the relevant provisions of UNDRIP, but Canada opposed, pointing out that the Declaration is not legally binding. The Latin American Indigenous Caucus requested recognition of indigenous peoples as owners of TK and genetic resources and that access be subject to free PIC of indigenous peoples.

CAPACITY BUILDING: This item was discussed in plenary on Wednesday and Thursday. Many developing countries called for strengthening provisions for capacity building and technology transfer. Costa Rica said the international regime should include measures for national capacity building and the North American Indigenous Caucus called for a special focus on indigenous peoples. The Pacific SIDS called for country-driven capacity building. The LMMC requested mandatory minimum requirements and multilateral support for capacity building and technology transfer. The EU and Canada expressed willingness to continue supporting capacity-building activities for ABS. Other issues raised included education on ABS-related issues, access to dispute settlement mechanisms, and involvement of indigenous and local communities.

INDICATORS FOR ABS

This item was discussed in plenary on Thursday. The Co-Chairs opened discussion on the CBD Strategic Plan as it relates to the future evaluation of progress and the need and possible options for ABS indicators (UNEP/CBD/WG-ABS/5/6). The African Group considered detailed discussion of ABS indicators premature since the main elements of an international regime have not yet been elaborated, instead suggesting the establishment of a small technical expert group during COP 9 to consider this issue. The EU also considered the debate premature and asked to limit the number of indicators. While not considering indicators a priority, Australia pointed out that the development of indicators 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. Delegates agreed to defer discussion on these items to a later date.

CO-CHAIRS' NOTES ON PROPOSALS AND REFLECTIONS ON PROGRESS

On Thursday afternoon, the Co-Chairs introduced two informal documents: one referred to as the Co-Chairs' notes on proposals made during ABS WG 5; the other referred to as the Co-Chairs' reflections on progress made by ABS WG 5. Co-Chair Hodges explained that the proposals document consists of the key proposals made by participants while the reflections document lays out the Co-Chairs' views on areas of convergence and concrete policy options. He suggested appending these documents to the meeting's report, noting however that they should not be considered as a basis for negotiations. Co-Chair

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

The EU, the LMMC and the Latin American and Caribbean Group (GRULAC) welcomed the Co-Chairs' suggested organization of work, with the EU suggesting that the Co-Chairs' documents be viewed as a roadmap for determining elements of a regime by COP 9. The African Group, the LMMC and Norway stressed the importance of signaling progress towards fulfilling the COP 8 mandate, also noting the deadline to complete the negotiation of the regime by 2010. Noting that parties remain divided on some of the items listed as areas of convergence in the reflections document, the LMMC, the African Group and GRULAC suggested that parties submit proposals prior to ABS WG 6, which could be merged with those contained in the proposals document and the Annex of Decision VIII/4 A.

Australia, New Zealand and Canada stressed that conclusions drawn in the reflections document go beyond what they consider to be areas of convergence, with Canada noting divergence on, among other items, minimum standards for ABS, derivatives and misappropriation. Australia preferred appending parties' written submissions to the meeting report, rather than the reflections document, noting that he could not accept either of the Co-Chairs' documents as a basis for work during ABS WG 6. Japan said that the Co-Chairs' reflections oversimplify the positions and are therefore unacceptable. The LMMC expressed concern about some parties' lack of willingness to enter into substantive negotiations on an international ABS regime.

The Arctic Indigenous Caucus welcomed proposals in the documents, underscoring the need for free PIC of indigenous peoples and a reference to UNDRIP. The North American Indigenous Caucus suggested that the ABS WG 5 report be made available for the Working Group on Article 8(j).

On Friday, plenary convened at 11:30 am after regional consultations. Co-Chair Hodges outlined editorial changes to the informal Co-Chairs' documents and restated the Co-Chairs' proposal to attach these documents to the meeting's report. The EU, the Pacific SIDS, the Central European Region and Switzerland supported the Co-Chairs' proposal. Switzerland and Mexico, opposed by Colombia, suggested holding further informal consultations before ABS WG 6.

The LMMC, GRULAC and the African Group proposed annexing the proposals document, but not the reflections document to the meeting's report, noting that the latter requires further refinement. They also proposed that the Co-Chairs prepare a compilation of proposals based on the Co-Chairs' proposals document and further submissions by parties and stakeholders for future work. Canada opposed appending the Co-Chairs' documents and proposed beginning ABS WG 6 with a clean slate. The EU requested that the proposals be compiled by the Executive Secretary, rather than the Co-Chairs.

CLOSING PLENARY

On Friday afternoon Co-Chair Hodges convened the closing plenary and proposed adding language to the meeting's report stating that ABS WG 5: invites parties, governments, indigenous and local communities and stakeholders to submit, by 30

November 2007, options on substantive agenda items of ABS WG 5 and 6; and requests the Executive Secretary to circulate these options prior to ABS WG 6.

Rapporteur Mary Fosi presented the meeting's report (UNEP/CBD/WG-ABS/5/L.1). Canada asked for the record to reflect the reasons for its opposition to references to the UNDRIP. Reiterating his opposition to attaching either of the Co-Chairs' documents to the report, Australia requested clarification about the status of these operational references and the documents.

After informal consultations, plenary reconvened at 6:00 pm with Australia suggesting language stressing that the Co-Chairs' documents were the sole responsibility of the Co-Chairs and that they will be circulated to the parties as information documents upon completion. Delegates adopted the report as amended.

The report of ABS WG 5 (UNEP/CBD/WG-ABS/5/L.1) contains references stating that the Co-Chairs' notes on proposals made at the meeting were the sole responsibility and under the sole authority of the Co-Chairs and would be circulated to parties as information documents as soon as possible upon their completion.

The Co-Chairs' notes document circulated during the meeting contains proposals made during the meeting on the following elements of an international ABS regime: fair and equitable benefit-sharing; access to genetic resources; compliance; TK and genetic resources; capacity building; and indicators for ABS.

The report also states that ABS WG 5 invites parties, governments, indigenous and local communities and stakeholders to submit to the Secretariat by 30 November 2007 concrete options on the substantive items on the agenda of ABS WG 5 and 6 and requests the Secretariat to circulate a compilation of those options as soon as practicable prior to the sixth meeting of the Working Group. The documents will be available on the CBD website prior to ABS WG 6 to be held 21-25 January 2008, in Geneva, Switzerland.

Many delegates thanked the Co-Chairs for their efforts. Canada called on states to implement existing obligations by developing model contracts, and to work on administrative measures and capacity building. The LMMC said that further proposals to be submitted should also form the basis for negotiations for ABS WG 6. Australia explained his unwillingness to negotiate text during ABS WG 6, suggesting that the meeting should rather identify elements of an international regime. The African Group underscored the need for an international regime on ABS, adding that without benefit-sharing there could be no incentives for conservation.

Referring to the awarding of the Nobel Peace Prize to Albert Gore Jr. and the Intergovernmental Panel on Climate Change, CBD Executive Secretary Ahmed Djoghlaif pointed to the environmental dimension of peace and security and reminded delegates that peace and the CBD's objectives are inextricably linked. Welcoming the constructive proposals from indigenous representatives, commending the positive spirit of negotiations during the week, and reminding delegates to work hard before ABS WG 6, the Co-Chairs gavelled the meeting to a close at 6:55 pm.

ARTICLE 8(J) WG 5 REPORT

On Monday, 15 October 2007, Article 8(j) Working Group Chair Fernando Coimbra (Brazil), on behalf of COP President Marina da Silva, opened the working group's fifth meeting, calling on delegates to continue their work, especially on an ethical code of conduct for the respect and protection of indigenous cultural and intellectual property. He further invited the Article 8(j) WG's contributions to the ABS WG. A representative of the Mohawk Nation welcomed delegates to Mohawk territory and prayed for positive meeting outcomes. Invoking the peaceful and cooperative spirit of the Haudenosaunee Confederacy, Ahmed Djoghlaif, CBD Executive Secretary, underscored the importance of cooperation to meet the challenges of biodiversity loss and climate change.

Delegates then adopted the meeting's agenda and organization of work (UNEP/CBD/WG8J/5/1/Add.1) and elected Mary Fosi (Cameroon) as rapporteur. They appointed Deon Alexander Stewart (Bahamas) and Estebancio Castro Diaz as Co-Chairs of Sub-Working Group I (SWG I), and Nicola Breier (Germany) and Gunn-Britt Retter as Co-Chairs of Sub-Working Group II (SWG II).

Malawi, for the African Group, and the Philippines underscored linkages between the work of the ABS and Article 8(j) WGs. Portugal, for the EU, and the Global Forest Coalition, requested that the Article 8(j) WG address impacts of biomass production and consumption on indigenous peoples. Canada said the WG should prioritize issues that relate to the CBD's objectives. Yemen, for the Asia and Pacific Region, stressed the need for fair and equitable benefit-sharing with indigenous and local communities.

Several indigenous representatives requested full and effective participation, including with a special emphasis on indigenous youth and women, especially regarding ABS. The International Indigenous Forum on Biodiversity (IIFB) said any international ABS regime must be informed by the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and underlined the need for a strong ethical code of conduct for the respect and protection of indigenous cultural and intellectual property. Canada pointed out that the UNDRIP is not legally binding but reiterated commitment to Article 8(j) implementation. Australia outlined procedural and substantive concerns about why it cannot support UNDRIP. The Indigenous Women's Biodiversity Network affirmed that indigenous knowledge is not in the public domain but rather regulated by indigenous legal systems. The International Forum of Local Communities supported the development of *sui generis* systems for the protection of traditional knowledge.

The World Intellectual Property Organization (WIPO) noted its activities under its Memorandum of Understanding with the CBD and described its voluntary fund for indigenous participation. ABS WG Co-Chair Tim Hodges (Canada) reported on the outcomes of ABS WG 5 held from 8 to 12 October 2007, noting that the meeting laid the groundwork for further progress at ABS WG 6.

This report summarizes the discussion of each agenda item. Plenary addressed recommendations of the UN Permanent Forum on Indigenous Issues (UNPFII) and progress on the Article 8(j) work programme. SWG I considered the composite

report, the TK action plan and the international ABS regime. SWG II looked at mechanisms for participation, *sui generis* systems, the ethical code of conduct and TK indicators.

RECOMMENDATIONS OF THE UNPFII

Delegates addressed recommendation of the UNPFII (UNEP/CBD/WG8J/5/9) on Monday and Wednesday. Delegates discussed references to financing for implementing the recommendations, capacity building for indigenous participation, indicators for measuring progress towards the 2010 target regarding TK protection, best practices of indigenous resource management, and future cooperation with UNPFII.

On Thursday, plenary considered a draft recommendation. Australia proposed moving: a reference to “capacity-building workshops for indigenous participation in the negotiation of the international ABS regime” to the recommendation on the international ABS regime; and a reference to “making available information on opportunities and sources for funding through the TK Information Portal” to the recommendation on mechanisms for indigenous participation.

On the role of indigenous issues in the International Year of Biodiversity, the EU suggested they relate to international exchange and awareness raising, while Canada added that their role should be under the guidance of the CBD COP Bureau.

On Friday, plenary adopted the recommendation without amendment.

Recommendation: In the recommendation (UNEP/CBD/WG8J/5/L.3), the Working Group recommends that COP 9: welcome continued close cooperation between UNPFII and the CBD processes; note with appreciation UNPFII’s contribution to the work of the Convention; and request the Executive Secretary to draw attention to the role of indigenous and local communities in the 2010 International Year of Biodiversity and to cooperate with UNPFII to explore opportunities for common activities.

PROGRESS ON THE ARTICLE 8(J) WORK PROGRAMME

This item was addressed in plenary on Monday and Wednesday and in SWG I on Thursday. On Monday, Chair Coimbra invited comments on progress reports regarding the Article 8(j) work programme (UNEP/CBD/WG8J/5/2/ and Add.1). Delegates made recommendations for the focus of future work, including: achieving the 2010 target, developing an ABS regime by 2010, benefit-sharing, and TK protection. The EU, Colombia, New Zealand and Argentina supported focusing on: task 7 (guidelines to ensure equitable benefit-sharing with TK holders); task 10 (prevention of unlawful appropriation of TK); and task 12 (guidelines to implement Article 8(j)) by continuing work on *sui generis* systems for TK protection, noting that this would require further discussion. The Philippines asked that guidelines be consistent with UNDRIP. The IIFB expressed concern that some parties do not recognize the existence of indigenous peoples in their countries.

While discussing a draft recommendation on Wednesday, the EU, Australia and Canada asked to bracket references relating to task 7 and task 15 on developing guidelines to facilitate TK repatriation, collaboration with the ABS WG, and on providing views regarding tasks 10 and 12, noted that their implementation

would be contingent on the outcomes of discussions on an international ABS regime, the draft ethical code of conduct, and elements of *sui generis* systems.

On Friday, plenary adopted the recommendation including bracketed text without amendments.

Recommendation: In the recommendation (UNEP/CBD/WG8J/5/L.5), the Working Group recommends that COP 9 request: the Executive Secretary to continue reporting progress based on information submitted in national reports and continue compiling case studies; analyze and report on work on related provisions, focusing on Article 10(c) (customary use of biological resources); and invite the Article 8(j) WG to continue collaborating with the ABS WG.

References in brackets recommend that the COP:

- decide to convene an Article 8(j) WG meeting prior to COP 10, preferably back-to-back with the ABS WG;
- decide to commence work on tasks 7, 10 and 12, taking into account contributions made by the *sui generis* systems and the ethical code of conduct and requests Article 8(j) WG 6 to initiate work on these tasks, while inviting parties and other to submit views on this issue;
- decide to initiate work on task 15 of the Article 8(j) work programme to develop guidelines to facilitate the repatriation of information, in order to facilitate the recovery of TK on biodiversity; and
- request the Article 8(j) WG to continue collaborating with the ABS WG by providing views on the elaboration and negotiation of the international ABS regime relevant to TK.

COMPOSITE REPORT

Phase II of the composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biodiversity (UNEP/CBD/WG8J/5/3, Add.1, Add.2, INF/3, 4, 5, 6, 7 and 8) was considered on Tuesday, Thursday and Friday. A recommendation was adopted in plenary on Friday.

On preambular paragraphs, delegations discussed the connection between local and indigenous communities, biodiversity and climate change. On climate change related paragraphs, many underlined the negative impacts on indigenous communities and TK, including to those living in SIDS and high-altitude areas. The EU noted indigenous and local communities’ contributions to climate change mitigation. Many delegates supported mitigation activities, with Bangladesh and Pakistan highlighting local approaches. Norway called for further collaboration with other bodies such as the Intergovernmental Panel on Climate Change. On paragraphs relating to voluntary isolation, Canada and Brazil noted that other bodies deal with such groups, while the Interethnic Association of Development of the Peruvian Rainforest urged governments to take action to protect isolated communities and establish exclusive-use areas. The EU noted that protected areas are just one of the ways to benefit such communities.

In the closing plenary on Friday, Australia asked for references to climate change mitigation throughout the document to remain bracketed and with Canada also called for reference to PIC regarding decisions on documenting TK to remain bracketed. A separate paragraph on communicating with the UN

Framework Convention on Climate Change COP was proposed, calling on it to take note of the implications of climate change on biodiversity. On considerations for guidelines for documenting TK, a reference to “cultural property” remained bracketed and options in the text were retained. The recommendation was adopted with these brackets and options.

Recommendation: The recommendation (UNEP/CBD/WG8J/5/L.6/Rev.1) includes a section on the composite report and another on considerations for guidelines for documenting TK. The Article 8(j) Working Group recommends that COP 9:

- note the specific vulnerabilities of indigenous and local communities to the impacts of climate change, including the threats to their TK;
- encourage parties, governments and others, with the full and effective participation of indigenous and local communities, to document, analyze and apply such knowledge;
- encourage parties to introduce necessary measures for ensuring the full and effective participation of indigenous and local communities in work relating to climate change adaptation;
- explore the possibility of developing technical guidelines for recording and documenting TK, innovations and practices, to analyze the potential threats of documentation to the rights of TK holders;
- support and assist indigenous and local communities to retain control and ownership of their TK; and
- request the Executive Secretary to collaborate with the UNPFII, UNESCO and WIPO to address the potential benefits and threats of the documentation of TK.

In bracketed references, the WG recommends that the COP:

- request the Executive Secretary to make available online the final version of the composite report;
- encourage parties, governments and others, with the full and effective participation of indigenous and local communities, to document, analyze and apply such knowledge; and
- invite parties to develop appropriate policies to ensure the rights of voluntary isolated peoples.

TK ACTION PLAN

Deliberations on a plan of action for the retention of TK: measures and mechanisms to address the underlying causes for the decline of TK (UNEP/CBD/WG8J/5/3/Add.1 and INF/9) took place in SWG I on Tuesday, Thursday, and Friday. A recommendation was adopted in plenary on Friday.

Discussions focused on, *inter alia*: TK databases; toolkits of measures and mechanisms to address the causes of TK decline; indigenous PIC; interactions between conservation, sustainable use and TK; and reporting on measures to retain TK. Canada proposed that indicators should address the 2010 target and that further research on sacred sites and protected areas be carried out.

On Thursday, SWG I Co-Chair Stewart presented a revised recommendation compiling delegates' views. Debate ensued over an annex listing areas relevant for the conservation and sustainable use of biodiversity, with some delegations led by the EU proposing deleting it and instead emphasizing positive measures, and the Indigenous Pacific Caucus, Cuba and the African Group favoring keeping specific elements and noting that the list is not exhaustive.

On Friday, the revised draft recommendation was introduced. Discussions centered on inviting parties and governments to report on positive measures for the retention of TK in areas relevant for the conservation and sustainable use of biodiversity. Delegates agreed to remove the brackets from an annexed list, noting that the list is not limited to the annex. They could not reach agreement on including the full and effective participation of indigenous and local communities in this reporting, and some text in this regard remained bracketed. During the closing plenary, delegates agreed to remove all brackets further to a proposal by Canada and Australia that reports should include inputs from indigenous and local communities. The recommendation was adopted as amended.

Recommendation: In the recommendation (UNEP/CBD/WG8J/5/L.7/Rev.1), the Article 8(j) WG recommends that COP 9, *inter alia*:

- note the advancement of the elements of the plan of action and decides that future work should focus on capacity building;
- urge parties and governments to develop toolkits of measures and mechanisms to address the underlying causes of TK decline, with the full and effective participation of indigenous and local communities, and report on experiences, emphasizing positive measures, through the national reporting process, the Clearing-House Mechanism and the TK information portal;
- invite the financial mechanism of the Convention and other donors to fund the development of national action plans; and
- invite parties and governments with the input of indigenous and local communities to report on positive measures for the retention of TK in areas relevant for the conservation and sustainable use of biodiversity such as those contained, but not limited, to an annex.

INTERNATIONAL ABS REGIME

Deliberations on an international regime on ABS, collaboration with the ABS WG and participation of indigenous and local communities (UNEP/CBD/WG8J/5/4/ and INF/10 and 13), took place from Tuesday to Friday in SWG I. On Wednesday, delegates discussed an informal compilation of proposals on an ABS regime based on submissions from parties. On Wednesday afternoon a revised compilation was provided. A contact group and drafting group met Thursday and on Friday morning to prepare a recommendation (UNEP/CBD/WG8J/5/L.8), which was presented in plenary on Friday afternoon.

On Tuesday, discussions centered on a tentative list of issues, as suggested by the EU, on which the ABS WG could benefit from input by Article 8(j) WG, such as an internationally recognized certificate of compliance. Many highlighted the link between TK and ABS, and TK and genetic resources. Brazil and the African Group noted that the use of TK should be based on PIC and MAT, and that a *sui generis* regime should be developed by parties to complement the international ABS regime. Many underscored the importance of a legally binding regime. Kenya, China, Brazil, India, Cameroon, South Africa and Malaysia noted that the international regime should include, *inter alia*: PIC, source of origin, indigenous rights, and *sui generis* systems. The Philippines and the Indigenous Peoples Council on

Biocolonialism recommended that the Article 8(j) WG provide the ABS WG with specific language relating to Article 8(j) by 30 November 2007.

On Wednesday, the Secretariat provided an informal compilation of proposals on an ABS regime based on submissions from parties and on discussions held Tuesday. Delegates raised concern that the document did not capture all proposals presented on Tuesday and asked for its revision. Discussions continued nonetheless. Further to a proposal by Canada, supported by Australia, to have an expert group to consider, *inter alia*, the ethical code of conduct and the integration of TK into an international certificate of compliance, the debate moved on to whether to establish such a group to provide input to the ABS WG. On Wednesday afternoon, delegates reviewed a revised compilation of proposals. Discussions revolved around the effectiveness of the Bonn Guidelines, the contribution of ABS to poverty alleviation, the value of subregional workshops and capacity building. Informal consultations were held, including on the format of input to be provided.

On Thursday, delegates discussed whether the Secretariat should prepare a draft recommendation on the basis of the compilation. They agreed that the Secretariat would not prepare a conference room paper (CRP) because views expressed were too divergent and time was limited. A contact group, co-chaired by Carlos Novella (Germany) and Juanita Chaves (Colombia), was established to elaborate a common basis on which to continue work under this agenda item. The contact group met throughout the evening and considered a number of elements on which the Article 8(j) WG could provide inputs to the development of an international ABS regime, including fair and equitable sharing of benefits, PIC, MAT and compliance with regard to TK.

The contact group resumed discussions on Friday morning and some of its members reconvened as a drafting group after lunch to prepare a draft recommendation. In the afternoon plenary, Chair Coimbra introduced a draft recommendation on collaboration with the ABS WG (UNEP/CBD/WG8J/5/L.8) that was prepared by the drafting group.

Delegates debated whether the document should have been forwarded by the drafting group to plenary for consideration and whether it should be the basis of plenary discussions or be forwarded to ABS WG 6. Although many expressed enthusiasm on the collegial atmosphere and the progress achieved by the contact group, they lamented that issues relating to misappropriation and disclosure could not be agreed upon. Underscoring that the COP mandated the Article 8(j) WG to provide input to the ABS WG and the assiduous work of the contact group, the Philippines, the African Group, Brazil and others favored forwarding the compilation documents that the contact group originally worked on to the ABS WG. Australia, New Zealand and Canada opposed, urging that nothing be sent through to the ABS WG. Delegates agreed to withdraw the document and forward no recommendation to ABS WG 6, but concurred that a note would be included in the meeting report to reflect the discussion in the plenary session and the work carried out on the ABS issue.

No recommendation was adopted on this issue.

MECHANISMS FOR PARTICIPATION

Deliberations on mechanisms for participation (UNEP/CBD/WG8J/5/6) took place in SWG II on Monday, Wednesday, and Thursday. A recommendation was adopted in plenary on Friday.

Delegates discussed web-based, community-based and alternative forms of communication, and the EU suggested monitoring the use of communication means by indigenous communities to develop effective communication strategies. Many developing countries suggested encouraging indigenous and local communities to develop their own communication tools and holding TK workshops in communities. Brazil requested that the development of TK databases should be based on indigenous PIC. Guinea Bissau emphasized participatory resource management strategies. The Tebtebba Foundation proposed indicators to measure indigenous participation in national and international CBD-related processes and Norway encouraged the inclusion of indigenous representatives in country delegations. Many indigenous representatives called for increased funding for indigenous participation, with a special focus on youth and women. Argentina asked that the voluntary fund for indigenous participation prioritize indigenous participants from developing countries. The IIFB noted the need for a timeline and the prioritization of tasks to address the underlying causes of the decline of TK.

Delegates agreed on the need for timely translation of official meeting documentation into UN languages to facilitate translation into indigenous languages, while New Zealand, Norway and Canada cautioned about the financial implications.

Regarding the draft recommendation, the EU and Canada opposed annexing the recommendations of the workshop on capacity building in Latin America and the Caribbean to the draft recommendation and delegates agreed to simply welcome the convening of this capacity-building workshop. Norway and the EU asked to retain the paragraph for consideration by the COP's budget group and SWG II Co-Chair Breier suggested a general reference to the need for translation, which remained bracketed.

In the closing plenary, New Zealand agreed to a general reference on the need for translation of notifications and other information, with the understanding that the issue will be discussed by the budget group at COP 9. Delegates adopted the recommendation as amended.

Recommendation: In the recommendation (UNEP/CBD/WG8J/5/L.2), the Article 8(j) WG recommends that the COP:

- welcome the convening of the Latin American and Caribbean Region capacity-building workshop;
- note the work of the IIFB and other organizations promoting understanding of the work of the CBD and indigenous participation;
- note the need for translation of notifications and other information resources into the six official UN languages;
- invite parties and others to donate to the voluntary trust fund for indigenous participation;
- encourage parties and others in collaboration with the Executive Secretary to develop alternative means of communicating public information on TK in community-friendly formats, while supporting the development by indigenous and local communities of their own media tools;

- request the Executive Secretary to: convene further regional workshops; develop electronic communication mechanisms; monitor the use of the CBD website and identify gaps and shortcomings; make available information on funding sources for information dissemination on TK; provide in a timely fashion meeting documentation in the six official UN languages in order to facilitate the consultation process with indigenous and local communities; and intensify efforts to promote the trust fund for indigenous participation; and
- reiterate its request to the Executive Secretary to strive to make documentation for meetings of the Article 8(j) and ABS WG available three months prior to the meeting.

SUI GENERIS SYSTEMS FOR TK PROTECTION

Deliberations on *sui generis* systems for TK protection took place in SWG II from Tuesday to Friday, on the basis of the draft guidelines for *sui generis* systems for TK protection (UNEP/CBD/WG8J/5/6). On Tuesday, a Friends of the Chair Group discussed the procedure for developing guidelines on *sui generis* systems. A recommendation was adopted in plenary on Friday.

Debate focused on: modalities of future work; relevant work of WIPO and consistency with the WTO Agreement on Trade Related Aspects of Intellectual Rights (TRIPS); and wording of the draft recommendation in regard to PIC and MAT, linkages between *sui generis* systems and work on ABS, and misappropriation.

On Tuesday, some delegates called for the swift development of an international framework for *sui generis* TK protection, with Colombia proposing that the Executive Secretary prepare draft guidelines based on information already received. Noting the inadequacy of intellectual property rights for TK protection and measures against misappropriation in user countries, India, Tanzania, Kenya and the Kuna People supported developing international standards, opposed by Australia, Canada, New Zealand and the EU, the latter preferring the development of a list of priority elements. Canada said WIPO should develop the IPR elements of *sui generis* systems, opposed by the IIFB, who insisted that the Article 8(j) WG is the leading body on *sui generis* systems. Argentina cautioned that *sui generis* systems might be inconsistent with the WTO TRIPS agreement. Malaysia encouraged delegates to make WTO provisions consistent with the CBD rather than argue that IPRs undermine CBD implementation.

The EU, the Philippines and Tanzania noted that *sui generis* systems should fully respect the UNDRIP, which was opposed on principle by Australia, Canada and New Zealand. Brazil proposed specifying that *sui generis* systems should be based on relevant customary law and guarantee indigenous PIC and MAT. Australia, opposed by the IIFB and IWB, preferred reference to “prior involvement of indigenous communities” rather than “indigenous PIC” and, with Mexico, requested specifying that *sui generis* systems be based on customary law only when not in conflict with national or international law. New Zealand expressed concern regarding references to indigenous PIC and customary law and suggested to revert to wording from Decision VIII/5 (Traditional Knowledge), urging the development, adoption and/or recognition of national and local *sui generis* models for TK protection.

On Wednesday, delegates discussed a draft recommendation and how it should refer to current draft elements for *sui generis* systems and agreed to “take into account” the current draft elements with a specification proposed by Australia stating that TK protection must be interpreted in accordance with the provisions of Article 8(j).

In the afternoon, after informal consultations, the EU, opposed by Australia, proposed an additional paragraph, noting the interlinkage between effective *sui generis* systems and the implementation of ABS provisions. Language, proposed by the LMMC on the prevention and misappropriation of TK associated with genetic resources, remained bracketed.

On Thursday, delegates discussed a proposal made by the LMMC to request the Executive Secretary to invite, compile and analyze for consideration by Article 8(j) WG 6 submissions on effective implementation of PIC and MAT relevant to TK. Argentina, the African Group and the Canadian Indigenous Biodiversity Network (CIBN) supported, and Australia and Canada opposed, the reference, while the EU noted it was inconsistent and inadequate under this agenda item.

On Friday, delegates agreed with Brazil’s request to retain the request to the Executive Secretary to update the draft guidelines for *sui generis* systems for TK protection (UNEP/CBD/WG8J/5/6) for consideration at the Article 8(j) WG 6, since it constitutes the basis for future work.

Brazil, opposed by Australia, asked to retain the reference to including the effective implementation of PIC and MAT and delegates agreed to bracket it.

The LMMC and the African Group, opposed by Australia, called on delegates to maintain language previously agreed at COP 7, referring to “the need to halt the misuse and misappropriation of knowledge, innovation and practices of indigenous and local communities, as stated in Decision VII/16” and delegates agreed to bracket it.

Stressing the need to address misappropriation of knowledge, the LMMC described continued work on *sui generis* systems and on an international ABS regime as two complementary tracks. Opposed by New Zealand and Australia, he asked delegates to “note the clear linkage between effective *sui generis* systems as may be developed, adopted or recognized and the implementation of ABS provisions” and delegates agreed to bracket it. SWG II forwarded the draft recommendation with the remaining brackets to plenary, where delegates approved it.

Recommendation: In the recommendation (UNEP/CBD/WG8J/5/L.9), the Article 8(j) Working Group recommends that the COP:

- take into account the elements of the *sui generis* systems for TK protection and recognize that they provide useful elements to consider as parties develop *sui generis* systems for TK protection;
- invite parties and governments to consider the development of *sui generis* systems that are local, national and regional in nature, taking into consideration the relevant customary law of the indigenous and local communities concerned and ensure the fair and equitable benefit-sharing;
- invite parties and governments to share their experience in the development of *sui generis* systems and to submit to the Executive Secretary concise case studies that underpin the

elements of *sui generis* systems. The reference to the effective implementation of PIC and MAT remains bracketed;

- request the Executive Secretary to make case studies available and update the draft guidelines for *sui generis* systems for TK protection (UNEP/CBD/WG8J/5/6) for consideration at Article 8(j) WG 6; and
- note the clear linkage between effective *sui generis* systems and the implementation of ABS provisions and the need to halt the misuse and misappropriation of knowledge, innovation and practices of indigenous and local communities, as stated in Decision VII/16. This entire paragraph remains bracketed.

ETHICAL CODE OF CONDUCT

The revised draft of elements of an ethical code of conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities (UNEP/CBD/WG8J/5/7) was addressed by SWG II from Tuesday to Friday and in a contact group, chaired by Tone Solhaug (Norway) on Thursday. On Friday morning, the SWG was presented with a draft recommendation and an annex including draft elements of a code of conduct, consisting of sections on nature and scope, rationale, ethical principles, and methods. After further refining the principles and agreeing to a proposed draft recommendation from the EU, this item was approved and forwarded to the plenary where it was adopted on Friday.

NATURE AND SCOPE: Discussions initially focused on the nature and scope of the code. New Zealand suggested specifying that the draft elements are voluntary and intended as guidance for developing a code of ethical conduct for research, access to, use, exchange, and management of information concerning TK protection and use. The EU, supported by Brazil, the CIBN, Norway and Lesotho, proposed that the elements provide guidance in interactions with indigenous and local communities and for the development of local, national and regional codes in accordance with CBD objectives. References to interactions/activities with indigenous and local communities remained bracketed. New Zealand, opposed by the CIBN, proposed limiting the code's application to the research community, the extractive industry and developers. Brazil, Tanzania, Colombia and the CIBN said the certificate should also apply to governments, research funding agencies, public and private research organizations, and others. Australia and New Zealand proposed adding references to TK, innovations and practices relevant for the conservation and sustainable use of biodiversity.

GENERAL PRINCIPLES: Brazil requested referring to "ethical" principles throughout the text. Canada, opposed by the CIBN and others, requested rewording or deleting references to: indigenous rights to lands and resources, restitution, and indigenous customary law, on grounds that these are not recognized by the CBD. All references to "land and waters traditionally used by local and indigenous communities" were subsequently bracketed. Mexico suggested including references to access by indigenous and local communities to land they have traditionally occupied. New Zealand and Canada also requested deletion of references to the protection of the relationships between indigenous communities and their environment, and the precautionary approach, noting that these were not clear. Delegates agreed to bracket them.

Canada specified that intellectual property applies to community concerns relevant to TK and is addressed in negotiations with knowledge holders. He opposed specifying that knowledge holders retain existing rights over TK, and this reference remained bracketed. The Philippines proposed language specifying that indigenous and local communities have the right to deny intellectual property claims in appropriate circumstances, while Brazil expressed concern with language denying intellectual property rights. The Philippines later withdrew its proposal.

Under non-discrimination, Portugal, for the EU, proposed and delegates agreed that "the ethics and guidelines for all activities should be non-discriminatory taking into account affirmative action particularly in relation to gender disadvantaged groups and representation." Under traditional resource rights, the CIBN proposed references to: the collective nature of rights; customary laws; and recognition of indigenous rights to land and resources. This provision remains bracketed.

SPECIFIC CONSIDERATIONS: New Zealand proposed separating references on the recognition of sacred and culturally significant sites from those recognizing lands and waters traditionally occupied by indigenous and local communities. Brazil, opposed by Canada, requested referencing International Labour Organization Convention 169 (Indigenous and Tribal People's Convention) in paragraphs on repatriation and participation. These sections remained bracketed.

METHODS: New Zealand questioned the section's purpose, noting that it outlined principles rather than methods. The EU proposed and delegates agreed to adding secrets and sacred knowledge to a reference on inter-cultural respect. Brazil, opposed by New Zealand, suggested deletion of references to research and research relationships.

The resulting recommendation was adopted during the closing plenary, with substantial bracketed text remaining in the annex.

Recommendation: In the recommendation on the elements of a code of ethical conduct (UNEP/CBD/WG8J/5/L.10), the Article 8(j) WG recommends that COP 9:

- take note of the further revised draft elements of a code of ethical conduct as annexed to the recommendation;
- request parties, indigenous and local communities and others to submit written comments to the Executive Secretary on the revised draft elements, at least six months prior to Article 8(j) WG 6;
- request the Executive Secretary to transmit the present decision to UNPFII and seek collaboration in the development of the elements and to compile views and make a compilation available at least three months prior to Article 8(j) WG 6; and
- request the Article 8(j) WG to further develop the draft elements of a code of ethical conduct and submit them to COP 10 for consideration and possible adoption.

The recommendation also contains an annex comprising preambular paragraphs and four sections on: nature and scope, rationale, ethical principles, and methods. The ethical principles are divided into two sections, general ethical principles and specific considerations. The general ethical principles address: respect for existing settlements; intellectual property; non-discrimination; transparency; approval or free prior informed consent of the knowledge holders; respect; collective or

individual ownership; fair and equitable sharing of benefits; protection; and the precautionary approach. Matters addressed under specific considerations include: recognition of sacred sites and culturally significant sites; recognition of land and waters traditionally occupied or used by indigenous and local communities; traditional resource rights; restitution and/or compensation and repatriation. All references to PIC, lands and waters traditionally occupied or used by indigenous and local communities and the precautionary approach remain bracketed along with a number of the options contained in the annex.

INDICATORS

TK indicators for assessing progress towards the 2010 target (UNEP/CBD/WG8J/5/8 and INF/1, INF/1/Add.1 and INF/2) were considered by SWG II on Wednesday and Thursday. A recommendation was adopted on Friday.

Debate centered on whether to adopt the indicator list as a basis for future work, or whether to restrict it. The Philippines, Argentina and Colombia supported adopting the indicator list as a basis for future work. Norway, supported by New Zealand and Rwanda, suggested adding only one or two indicators to the headline indicators already elaborated. New Zealand proposed devising indicators on the basis of relevance to the CBD and wider application.

The EU requested inclusion of a reference to Decision VIII/15 (Framework for the achievement of the 2010 target and integration of targets in thematic work programmes) and opposed the inclusion of indicators not already listed in this decision. Canada and Australia rejected the list, but expressed their interest in developing indicators in accordance with Decision VIII/15. The EU, Brazil and Thailand called for a focus on a number of practical and meaningful indicators, and opposed inclusion of indicators that did not fall within the mandate of the Article 8(j) WG.

Tanzania proposed an additional indicator regarding sectoral legislation on TK protection. The Pacific Indigenous Peoples Caucus prioritized indicators relating to: indigenous rights such as PIC; the percentage of traditional territories available for and used to sustain livelihoods; wellbeing of indigenous communities; and environmental restoration.

The recommendation was adopted during the closing plenary.

Recommendation: In document (UNEP/CDB/WG8J/5/L.4), the Article 8(j) WG recommends that COP 9, *inter alia*:

- note the importance of both qualitative and quantitative indicators to provide a broad picture of status and trend of TK;
- recommend that a maximum of two additional indicators are included in the framework by the Article 8(j) WG 6 and take note of the proposed indicators contained in Annex I of the report of the International Experts Seminar on Indicators for Indigenous Peoples;
- invite parties, governments and relevant organizations, in consultation with and participation of, indigenous and local communities, to design and, as appropriate, test, indicators at the national level for status and trends of TK in order to assess progress towards the 2010 biodiversity target; and
- request Article 8(j) WG 6 to continue its work on the identification of a limited number of meaningful, practical and measurable indicators.

CLOSING PLENARY

On Friday afternoon, after completion of the drafting group's work on collaboration with the ABS WG, Chair Coimbra convened the closing plenary at 4:30 pm. SWG I Co-Chair Stewart presented the SWG I report (UNEP/CBD/WG8J/5/L.1/Add.1), noting that a paragraph outlining the process by which the draft recommendation on collaboration with the WG on ABS and participation of indigenous and local communities had been drafted and forwarded to plenary and would be added to the report. Delegates adopted the report.

SWG II Co-Chair Breier presented SWG II's report (UNEP/CBD/WG8J/5/L.1/Add.2), which was adopted without amendment.

Rapporteur Mary Fosi then presented the meeting's report (UNEP/CBD/WG8J/5/L.1). Delegates adopted the report with several amendments to adequately reflect statements made during the week. Several delegates thanked the Mohawk People for hosting the Article 8(j) WG 5 on their territories and funders for their support.

Malawi, for the African Group, underlined its commitment to the implementation of the CBD's third objective. The LMMC reiterated their call for international legally binding measures to prevent misappropriation. Noting a decline in the participation from his region, Bhutan, for the Asia and Pacific Region, called for regional preparatory meetings to facilitate CBD implementation.

The Indigenous Women's Biodiversity Network raised concern that some CBD parties do not recognize the rights of indigenous peoples in their territories. Noting that the past experience had shown that voluntary guidelines are not implemented, she called for a strong *sui generis* system for TK protection. Stressing their role in TK preservation, the Indigenous Youth Caucus called for capacity building and training for indigenous participation in the negotiation of the international ABS regime. The IIFB said that those countries who did not vote in favor of UNDRIP were now also trying to undermine past COP decisions. Expressing regret that the meeting did not succeed in adopting a recommendation on inputs for the ABS WG, she stressed the importance of the Article 8(j) WG for indigenous participation in the regime's negotiation.

Stressing unprecedented participation by indigenous groups, CBD Executive Secretary Ahmed Djoghlafl called on participants to continue working towards negotiating an international ABS regime and the implementation of Article 8(j).

Chair Coimbra thanked all participants for their collaboration and contributions during the week and gavelled the meeting to a close at 8:00 pm.

A BRIEF ANALYSIS OF ABS WG 5 AND ARTICLE 8(J) WG 5

"Two roads diverged in a yellow wood, and sorry I could not travel both." So begins Robert Frost's poem "The Road Not Taken" about the inherent uncertainty of outcomes when making choices in life. Delegates at the back-to-back meetings of the Working Groups on ABS and Article 8(j) found themselves at a similar juncture in autumnal Montreal as they argued the merits of opposing visions of how to meet the 2010 deadline

for the negotiation of an international ABS regime while not losing sight of the progress that must be made with regard to the protection of traditional knowledge (TK) to meet the 2010 target to significantly reduce the current rate of biodiversity loss.

Together, the meetings thus represented a critical opportunity to prepare for COP 9, at which delegates will have to chart the course towards meeting the CBD's 2010 twin challenges. While the ABS WG is clearly mandated to address the negotiation of the ABS regime, the Article 8(j) WG's role needed clarification. On the one hand, its mandate extends beyond issues relating to facilitating access to and sharing the benefits of TK. On the other hand, it is well placed to make significant contribution towards elements in the ABS regime relating to TK. These linkages between the working groups and the COP 8 mandate to identify the Article 8(j) WG's contribution towards an ABS regime affected both meetings and led to strong undercurrents flowing from ABS WG 5 into the Article 8(j) WG. This analysis revisits the dynamics of both meetings and examines how the linkages between them have affected their outcomes.

ALTERNATIVE ROADS OR DIFFERENT DESTINATIONS?

It was the ambitious goal of ABS Co-Chairs Fernando Casas and Tim Hodges to identify "areas of convergence" in order to pave a road towards substantive negotiations. In the end, ABS WG 5 could not give rise to an outcome document reflecting this aim. The meeting demonstrated that parties are not yet sufficiently aligned for negotiations to yield any results. However, it provided for exchange of views in plenary and discussion among regional groups on the sidelines of the meeting. In a process marked by diversity of views, informal coordination and attempts to build agreement on key issues amongst larger regional groups might in the long run prove to have been the most efficient approach and a crucial precondition for finding convergence.

At the outset, similar divisions between parties about their preferred framework for an international regime that occurred at the Working Group's last meeting in Granada were evident in Montreal. Australia, Canada and New Zealand were on one track arguing that most elements of an ABS regime already exist in the form of national ABS legislation and that any international regime must thus allow maximum flexibility to accommodate different national approaches. On the other track were those countries that see themselves predominantly as providers of genetic resources, including the majority of the African Group, the Latin American and Caribbean Group and Asia-Pacific countries, who argued that only a stringent international regime can prevent biopiracy and ensure equitable benefit-sharing. They therefore pushed for the immediate negotiation of a legally binding international instrument that would contain user guidelines with clear compliance and enforcement measures.

At COP 8, these countries were united as the G-77/China to get the "Granada text", the outcome document of the ABS 4 WG, accepted as the basis for negotiations. At ABS WG 5, this endeavor was clearly rejected by those who sought to travel down the "national road" making it clear that they do not want to negotiate a legally binding international regime at this stage. The news at this meeting came from the EU, who had previously avoided taking a clear stance on the nature of the regime. At the outset of this session, the EU disclosed that some elements of a

regime, such as standard forms of material transfer agreements, certificates of compliance and other types of ABS mechanisms, should be regulated by international minimum standards that leave some flexibility for national implementation, while ensuring that the objectives of the regime are met.

With this position at hand, EU delegates made all the effort to convince G-77/China delegates to "move out of their corner" to find middle ground. The Like-Minded Megadiverse Countries (LMMC) were the first to answer this call, later followed by the African Group and an increasing number of Asian countries. However a new "mega-coalition" between the EU and G-77/China has yet to materialize. The openness of some LMMC countries towards the EU's proposals which might result in a final regime comprised of a number of different building blocks, some legally binding others not, left other LMMC members who insist on a strong legally binding regime wondering whether being part of the group is still in their best interest. Fissures within the LMMC became apparent at the end of the second week with some members wondering whether they should continue to "pick their fights" within the coalition or search for new partners elsewhere.

These disagreements within the LMMC and between the EU and the LMMC or other G-77/China members might also compromise the strategy of isolating those who prefer traveling the national road and pressuring them into showing some flexibility regarding their position. In any case, as several delegates commented at the end of the week, such a forceful strategy might backfire and reinforce their opposition to a strong international regime. Ultimately, the strategizing did not lead to the identification of generally accepted areas of convergence or at least not at this meeting. The discussions will continue at ABS WG 6 in January. In this regard, the Co-Chairs' decision to consider ABS WG 5 and 6 as two parts of a single session may have shown its merit by allowing for a continued discussion rather than pressuring delegates to deliver a concrete outcome at ABS WG 5.

Despite the lack of an official outcome document, most delegates concurred that there are increasing areas of convergence, such as agreement that a regime must increase legal certainty for both the users and providers of genetic resources, that it should accommodate different forms of contracts and that it may include some form of certificate that allows monitoring compliance with national regulation. On the other hand, delegates were also clearly aware of the remaining areas of divergence, such as the strength of PIC in national legislation and whether it includes PIC of indigenous and local communities.

The alternative approaches of those who prefer to travel the national or the international road towards an international regime is a manifestation of their differing objectives regarding the regulation of ABS as a whole.

UNDERCURRENTS FLOWING TOWARDS ARTICLE 8(J)

While the inability of ABS WG 5 to produce an interim outcome to be forwarded to ABS 6 did not come as a surprise to most delegates, quite a few expressed their disappointment with the "meager" achievements of Article 8(j) WG 5. As some stated, this sentiment may have been due to expectations raised by the mandate to clarify areas in which the Article 8(j) WG

can contribute to the elaboration of an international regime. However, most felt that it was the political undercurrents carrying over from the ABS discussions that led to outcomes that fell short of expectations.

With TK being one of the cross-cutting issues under the Convention, the Article 8(j) Working Group constitutes the ultimate testing ground for strategies that integrate the objective of conserving biodiversity with that of equitable benefit-sharing. In its past sessions, the Article 8(j) WG had mainly focused on initiatives to protect TK such as the development of *sui generis* systems and an ethical code of conduct. At Article 8(j) WG 4, discussions stagnated on these issues mainly because the nature of the potential mechanisms was not resolved.

Since both COP 8 and the ABS WG had sent signals that the Article 8(j) WG could contribute to the development of elements of an international regime on ABS, many delegates hoped that this connection would invigorate the process and discussions on *sui generis* systems and the ethical code of conduct from their current tentative state towards structured proposals to be adopted by the COP in the near future.

Ironically the outcome was almost the complete opposite. The discussion on the Article 8(j) WG's contribution towards an international ABS regime turned out to be the biggest stumbling block to substantive discussions. The discussion on ABS held in Sub-Working Group I distracted delegates from the deliberations on *sui generis* systems and the code of conduct held in Sub-Working Group II.

In addition, the wider political ramifications of possible linkages of these instruments to an international ABS regime led to what one delegate described as a "systematic dismantling" – removing parts and references to indigenous rights from the draft *sui generis* systems and ethical code of conduct. The prospect they could be associated led a number of parties to request the deletion of references to principles such as indigenous PIC or customary law, or their qualification as being subject to national law and/or voluntary in nature. Similarly they opposed references stating that the prevention of misappropriation of TK should be one of the objectives of these instruments.

Interestingly, such requests were made mostly, though not always, by the same parties that preferred taking the national road towards an international ABS regime. Again, these parties may have been pursuing a different vision of how to implement the CBD's objectives with regard to TK and ABS. For example, a proposal made by Canada and later supported by New Zealand and Australia, to develop voluntary guidelines on TK and benefit-sharing that would complement the Bonn Guidelines on ABS regarding genetic resources. The idea was strongly rejected by the LMMC and most of the G-77/China, who felt that voluntary guidelines had and would continue to fail to address the misappropriation of knowledge.

On the other hand, the proposal was acknowledged as an indication of readiness to discuss the connection between ABS and TK. This willingness was also present in the contact group established to draft a list of elements that the Article 8(j) WG could contribute to the elaboration of the international ABS regime. The idea of developing such a list to formalize the WGs' relationship received broad support, however since no agreement

could be reached on whether the list should include contentious issues such as disclosure of origin and misappropriation, plenary could not adopt a draft recommendation on the issue.

The Article 8(j) WG's mandate to clarify the connection between work on the protection of TK and ABS thus became its biggest substantive challenge. In the end, this hampered progress on both substantive items as well as the establishment of a more formal link to facilitate collaboration between the two WGs.

On the upside, many delegates welcomed the opportunity to discuss their positions on the international ABS regime. Since most of the key players attended both meetings, there was ample time to continue regional and inter-regional consultations. This may just be what is needed in order to further mutual understanding and build a basis for convergence at future meetings. The danger is that substantive items on the broader Article 8(j) agenda are left behind.

CHOOSING THE PATH

COP 9 faces a significant challenge in charting the course for the ABS process without causing collateral damage to other instruments and programmes essential for the achievement of the 2010 target. The past two weeks have shown that the protection of traditional knowledge is one of those areas in which the linkages to ABS can create unexpected stumbling blocks.

Frost's poem ends with the narrator looking back at his life, stating that the path he chose "made all the difference." Pertinent words for the delegates and parties to these negotiations as they decide which road to travel. Only hindsight will tell us whether the course being charted here leads to an international ABS regime that will effectively contribute to the aims of the CBD of protecting biodiversity and traditional knowledge.

UPCOMING MEETINGS

FOURTH MEETING OF THE WORKING GROUP ON LIABILITY AND REDRESS IN THE CONTEXT OF THE CARTAGENA PROTOCOL ON BIOSAFETY: This meeting will take place from 22-26 October 2007, in Montreal, Canada. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/doc/meeting.aspx?mtg=BSWGLR-04>

SECOND SESSION OF THE ITPGRFA GOVERNING BODY: Organized by the FAO, the second session of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture will be held from 28 October - 2 November 2007, in Rome, Italy. For more information, contact: Shakeel Bhatti, ITPGR Secretary; tel: +39-06-570-53057; fax: +39-06-570-56347; e-mail: shakeel.bhatti@fao.org; internet: <http://www.planttreaty.org>

FIFTH TRONDHEIM CONFERENCE ON BIODIVERSITY: The fifth Trondheim Conference on Biodiversity will be held from 29 October - 2 November 2007, in Trondheim, Norway, under the theme "Ecosystems and people: biodiversity for development - the road to 2010 and beyond." For more information, contact: Norway's Directorate for Nature Management; tel: +47-73-58-05-00; fax: +47-73-58-05-01; e-mail: trondheim.conference@dirnat.no; internet: <http://www.trondheimconference.org/>

HIGH-LEVEL CONFERENCE ON BUSINESS AND BIODIVERSITY:

Organized by the Portuguese Presidency of the EU, the Council and the European Commission, this Conference will be held from 12-13 November 2007, in Lisbon, Portugal. It aims to contribute to an improved understanding of the competitive advantages gained from conserving biodiversity and using biological resources sustainably. For more information, contact: Sebastian Winkler, Head of Countdown 2010 Secretariat, tel: +32-2-739-0322; fax: +32-2-732-9499; e-mail: smw@iucn.org; internet: <http://www.countdown2010.net/business/european-business-and-biodiversity-initiative>

ARCTIC REGION WORKSHOP ON INDIGENOUS COMMUNITIES, TOURISM AND BIODIVERSITY: NEW INFORMATION AND WEB-BASED TECHNOLOGIES:

This workshop will take place from 19-23 November 2007, in Quebec City, Canada. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/meetings/default.shtml>

INTERNATIONAL CONFERENCE ON SUSTAINABLE FOREST MANAGEMENT AND POVERTY ALLEVIATION: ROLES OF TRADITIONAL FOREST-RELATED KNOWLEDGE:

This conference, organized by the International Union of Forest Research Organizations, the UN FAO and others, will take place from 17-20 December 2007, in Kunming, China. It will provide a platform for sharing of information and exchanging experiences related to traditional forest-related knowledge in the Asia-Pacific region. For more information, contact: Liu Jinlong, Chinese Academy of Forestry; e-mail: liujl@caf.ac.cn; internet: <http://www.iufro.org/download/file/1928/3500/kunming07-tftfk-1st-announcemt-call.doc>

SIXTH MEETING OF THE CBD AD HOC OPEN-ENDED WORKING GROUP ON ABS:

The sixth meeting of the CBD *Ad Hoc* Open-ended Working Group on Access and Benefit-Sharing (ABS) will meet from 21-25 January 2008, in Geneva, Switzerland. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/doc/meeting.aspx?mtg=ABSWG-06>

SECOND MEETING OF THE CBD AD HOC OPEN-ENDED WORKING GROUP ON PROTECTED AREAS:

The second meeting of the CBD *Ad Hoc* Open-ended Working Group on Protected Areas will take place from 11-15 February 2008, in Rome, Italy. This meeting will consider future action on the Programme of Work on Protected Areas, including country reports on implementation and recommendations from a series of workshops. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/doc/meeting.aspx?mtg=WGPA-02>

THIRTEENTH MEETING OF THE CBD SBSTTA:

The 13th meeting of the CBD's Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) will take place from 18-22 February 2008, in Rome, Italy. This meeting will review progress in the CBD's implementation and address scientific and technical issues in relation to the Convention.

For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/doc/meeting.aspx?mtg=SBSTTA-13>

SEVENTH SESSION OF THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES:

This meeting will be held from 21 April - 2 May 2008 at UN headquarters in New York. For more information, contact: UNPFII Secretariat; tel: +1-917-367-5100; fax: +1-917-367-5102; e-mail: indigenouspermanentforum@un.org; internet: http://www.un.org/esa/socdev/unpfii/en/session_seventh.html

CARTAGENA PROTOCOL COP/MOP 4: The fourth meeting of the Conference of the Parties serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP 4) will take place from 12-16 May 2008, in Bonn, Germany.

For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/meetings/default.shtml>

NINTH CONFERENCE OF PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY:

COP-9 will take place from 19-30 May 2008, in Bonn, Germany, including a high-level segment from 28-30 May. The COP will consider, *inter alia*, progress in the implementation of the Programme of Work on Protected Areas and recommendations arising from the second *Ad Hoc* Open-ended Working Group on Protected Areas. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@cbd.int; internet: <http://www.cbd.int/doc/meeting.aspx?mtg=COP-09>

GLOSSARY

ABS	Access and benefit-sharing
CBD	Convention on Biological Diversity
CIBN	Canadian Indigenous Biodiversity Network
GURTs	Genetic Use Restriction Technologies
IWBN	Indigenous Women's Biodiversity Network
IIFB	International Indigenous Forum on Biodiversity
IPRs	Intellectual property rights
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
LMMC	Like-Minded Megadiverse Countries
MAT	Mutually agreed terms
MTA	Material transfer agreement
PIC	Prior informed consent
SIDS	Small Island Developing States
TRIPS	WTO Agreement on Trade-Related Aspects of Intellectual Property Rights
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNPFII	United Nations Permanent Forum on Indigenous Issues
WIPO	World Intellectual Property Organization
WTO	World Trade Organization