

ABS 6 HIGHLIGHTS: THURSDAY, 24 JANUARY 2008

On Thursday morning, the Working Group on Access and Benefit-sharing (ABS) met in plenary to hear reports from the contact groups. The contact group on a draft decision to be considered by the Conference of the Parties (COP) met in the morning and in the afternoon. The contact group on the objective and main components of the international ABS regime met in the evening and continued discussions into the night. An informal meeting on capacity development for ABS convened by the Working Group Co-Chairs Timothy Hodges (Canada) and Fernando Casas (Colombia) was held during the lunch break.

PLENARY

Working Group Co-Chair Hodges reported on the COP Bureau's support for the current process. Contact group Co-Chair Pierre du Plessis (Namibia) reported on the deliberations of the contact group on the objective and main components pointing out that several delegations submitted their suggestions for the main components in writing, for inclusion in a non-paper being prepared by the contact group co-chairs. Contact group Co-Chair François Pythoud (Switzerland) reported that the contact group on the draft COP decision had incorporated proposals into the draft decision and that the co-chairs had prepared another non-paper on the basis of the submissions.

Working Group Co-Chair Casas reminded delegates that the contact group on the objective and main components was to develop concrete text proposals and tangible options. He also requested the contact group to consider the scope, and time permitting the nature of the regime on the basis of a non-paper being prepared by the Working Group co-chairs.

Co-Chair Casas encouraged delegates to both undertake major efforts to move forward, and acknowledge the efforts made by others. ALGERIA said that discussions should be more operational, tangible and concrete, by focusing on areas of convergence within a synthesis document to be presented by the contact group co-chairs.

CONTACT GROUP ON THE DRAFT DECISION

Delegates considered a revised non-paper synthesizing parties' proposals on clauses for a draft COP decision. On acknowledging UNEP's role in awareness raising and capacity

development, the EU suggested referring to its "potential" role, while the AFRICAN GROUP proposed referring also to the role of parties and governments.

CANADA requested stating that COP "take note" of the adoption of the UN Declaration on the Rights of Indigenous Peoples rather than "welcome" it and, opposed by BRAZIL, requested deleting a reference stating that it will guide parties' understanding of their CBD commitments.

NORWAY endorsed an observer's proposal noting the importance of indigenous and local communities' participation in the negotiations and supported stating it in an operational clause. The EU, CANADA and BRAZIL preferred placing such reference in the preamble, with BRAZIL suggesting replicating the exact language of Decision VII/19D on the terms of reference for the elaboration of an international ABS regime.

Delegates debated whether an instruction to the Working Group's future work should make reference to Decision VII/19D, or Decision VIII/4A, containing the ABS 4 outcome and requesting the group to complete its work at the earliest stage before COP 10. The EU and AUSTRALIA emphasized Decision VII/19D, while BRAZIL, Malaysia for the LIKE-MINDED MEGADIVERSE COUNTRIES (LMMC), and the AFRICAN GROUP stressed Decision VIII/4A. Delegates eventually agreed to reference both decisions. The LMMC, opposed by the EU, suggested that the group complete its work "to enable the adoption of the regime at COP 10."

Delegates debated the number and timing of the ABS Working Group's meetings between COP 9 and 10. Noting a desire to develop the regime as soon as possible, NORWAY preferred setting a maximum number of meetings, but parties eventually agreed to leave this determination to the COP by retaining blank brackets in the draft decision. On the timing of the meetings, delegates agreed to delete text referring to specific dates, deciding instead to retain options for the Working Group's seventh meeting either in 2008 or as soon as possible after COP 9, subject to availability of financial resources.

On a paragraph to convene a group of technical experts to examine technical issues, delegates noted that it was overly prescriptive and agreed to an EU proposal to replace the paragraph with a note to insert necessary language on the establishment of a technical expert group or groups at the COP, with clear terms of reference.

On alternative paragraphs requesting the Executive Secretary to either commission a study or convene a group of technical experts to examine the feasibility, practicability and costs of a certificate of origin/source/legal provenance, BRAZIL questioned the efficacy of the study considering lack of common understanding regarding the certificate. He also stated that if such a study or expert group is convened, there should also be a study of the costs of misappropriation of genetic resources to countries of origin. The AFRICAN GROUP also opposed the paragraphs, which were deleted.

CANADA and COLOMBIA supported a paragraph on ensuring sufficient preparation and facilitating the effective participation of indigenous and local communities in the negotiation of the regime, with BRAZIL suggesting to add a reference to COP Decision VII/19D from which the wording was drawn. The EU suggested referencing the paragraph on indigenous participation contained in COP Decision VIII/5C on Article 8(j) and related provisions. The EU supported, and CANADA, COLOMBIA and ARGENTINA opposed, an alternative paragraph requesting the co-chairs to carry out bilateral and regional consultations and calling for funding for these consultations. Both paragraphs were retained in brackets. The INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY proposed an additional paragraph requesting the Executive Secretary to convene an international seminar on traditional knowledge prior to the next meeting of the ABS Working Group and to support national and regional meetings to feed into the international expert meeting. The EU suggested, and it was agreed, to retain the paragraph in order to study it further.

The AFRICAN GROUP presented new text, inviting the Global Environment Facility (GEF) to: strengthen the efforts to implement its strategic programme on capacity building for ABS in order to enable parties to elaborate, negotiate and implement the international regime; mobilize available resources of the fourth replenishment; and provide appropriate resources in its fifth replenishment. The EU added text urging parties to make full use of the GEF programmes, including for the full implementation of the ABS-related articles of the Convention. Delegates agreed to these additions.

Delegates agreed to text inviting UNEP, governments and relevant intergovernmental organizations to support, continue supporting and facilitate regional and interregional consultations, to carry out capacity-development activities and to contribute to raising awareness, and encouraging countries to include ABS-related activities among the priorities for external funding.

Delegates debated a paragraph proposed by JAPAN and supported by NEW ZEALAND, inviting parties to fully utilize the Bonn Guidelines in the formulation of their national legislation. BRAZIL opposed a stand-alone reference to the Bonn Guidelines, and the AFRICAN GROUP noted such an invitation is redundant as it repeats prior COP decisions. The paragraph remained bracketed. BRAZIL proposed another paragraph inviting parties to fully utilize Decision VIII/4A.

On a paragraph referring to the Clearing-House Mechanism (CHM), the AFRICAN GROUP highlighted the capacity deficit of developing countries to access the CHM, and delegates agreed to add text inviting the Executive Secretary, among others, to take further measures to facilitate access and use of the CHM.

A revised draft decision will be prepared, to be considered by plenary.

CONTACT GROUP ON THE COMPONENTS

Co-Chairs René Lefeber (the Netherlands) and du Plessis tabled their paper on the main components for the regime, comprised of sections on: fair and equitable benefit-sharing; access to genetic resources; compliance; traditional knowledge; and capacity building. They explained that each substantive section had two subsections: one on components for further elaboration which contained "bricks," describing the main elements for an international regime as distilled by the co-chairs from submissions and interventions; and one on components for further consideration, into which delegates could decide to move elements from the section above if they could not agree on them, thereby converting them into "bullet points." The co-chairs explained that they had distilled parties' submissions into concise building blocks by removing: any reference to the nature of the regime, such as whether the element would be legally binding or not; and any reference to the scope of the regime, for example if derivatives would be covered or not. The co-chairs then proposed the following working method, consisting of three questions: whether delegates could accept this text as the basis for future work; whether delegates agreed that the concept enshrined in each "brick" should form part of the regime; and whether they agreed with the wording.

Following regional consultations, delegates agreed to work on the basis of the text prepared by the co-chairs, using the proposed working method. Malaysia, for the LMMC, asked that the record reflect their understanding that good-faith engagement required that once parties agreed to an element under a "brick," there would be no attempts to remove that element in future negotiations. Delegates then started considering the components of the regime, element by element, starting with the part on capacity building. Deliberations continued into the night.

IN THE CORRIDORS

As delegates headed into a late night contact group session to work on the main components of the international regime, most were pleasantly surprised by the co-chairs' working method to group the regime's components under building blocks and, if necessary, bullet points. While many wondered about how many "bricks" of agreement or "bullets" of division would emerge, others emphasized that simply agreeing on the use of the document would be the big leap forward for the ABS negotiations.

Asked about his personal highlight of the day, one delegate affirmed that being able to talk about essential concepts, such as the definition of misappropriation with regard to compliance, and derivatives without provoking a knee jerk response was a success in itself and an indication that some regional groups are moving faster towards compromise than they may appear.

ENB SUMMARY AND ANALYSIS: The *Earth Negotiations Bulletin* summary and analysis of ABS 6 will be available on Monday, 28 January 2008 online at: <http://www.iisd.ca/biodiv/abs6/>