

COP/MOP 5 HIGHLIGHTS: THURSDAY, 14 OCTOBER 2010

COP/MOP 5 delegates met in working groups throughout the day. WG I met briefly in the afternoon to discuss outstanding matters on the Strategic Plan and the COP/MOP multi-year programme of work (MYPOW) and adopt the group's report. WG II revisited the decision on capacity building and considered other draft decisions on handling, transport, packaging and identification (HTPI) of living modified organisms for food, feed and for processing (LMO-FFPs), risk assessment, public awareness, education and participation, and the financial mechanism.

WORKING GROUP I

STRATEGIC PLAN AND MYPOW: On the operational objective regarding socio-economic considerations, after informal consultations with the AFRICAN GROUP, the EU, with TURKEY and CROATIA, proposed new text considering the provision on relevant guidance on socio-economic considerations based on research and information exchange. On a paragraph outlining assumptions regarding the provision of resources, she said that their previous suggestion to delete a reference to "the progressive increase in human resources" had not been considered. After exchanging divergent views, it was agreed that the Strategic Plan, including references to budget and human resources, will be amended and updated with other decisions adopted at COP/MOP 5. The draft decision was thereafter adopted as amended.

Delegates then adopted the report of the WG I (UNEP/CBD/BS/COP-MOP/5/WG.1/L.1).

WORKING GROUP II

CAPACITY BUILDING: The EU, with TURKEY and CROATIA, requested re-opening the discussion on the draft decision on the status of capacity building activities, noting that there was substantive disagreement on the proposal to create an *ad hoc* expert group (AHEG) on socio-economic considerations. An informal group decided not to form an AHEG, but final agreement was left outstanding.

HTPI: Standards: Delegates continued discussing the draft decision on standards for HTPI of LMO-FFPs. Debate focused on two issues: whether to form an AHEG and what its terms of reference (TOR) should be. The EU, with TURKEY and

CROATIA, and supported by PARAGUAY, maintained that an AHEG would not be the most effective tool, proposing that the Executive Secretary instead commission a report on standard-setting. The AFRICAN GROUP, with BOLIVIA and NEW ZEALAND, preferred that the TOR of an AHEG include the task of compiling information on standard-setting. MEXICO, with BRAZIL, emphasized that the AHEG would be costly.

After some debate, the EU revised their proposal to include elements of the AHEG's TOR into the study. After informal consultations between the EU, with TURKEY and CROATIA, the AFRICAN GROUP, NEW ZEALAND, MEXICO, BOLIVIA, and JAPAN, the EU presented compromise text requesting the Executive Secretary to commission an analysis of existing standards, methods, and guidance relevant to the HTPI of LMOs, while addressing gaps, cooperation with relevant organizations, guidance on international regulations, and possible elaboration of standards. The draft decision was approved as amended.

RISK ASSESSMENT: Further guidance on specific aspects of risk assessment: On the objective of the guidance on risk assessments of LMOs, PARAGUAY suggested reflecting that it is an evolving document. The PHILIPPINES proposed adding "this guidance is not restrictive and does not impose any obligations to parties."

On review and testing of the first version of the guidance on risk assessments, the EU, with TURKEY and CROATIA, said that both reviewing and testing of the guidance were necessary and complementary, adding that they should be conducted in parallel, according to the training manual. The EU, with TURKEY and CROATIA, suggested improving the guidance through the complementary processes of review and testing.

LMOs that may have/are not likely to have adverse impacts on biodiversity: PARAGUAY, supported by GUATEMALA, suggested deleting the section, citing incoherence with the Protocol. The Secretariat, supported by the EU and BOLIVIA and others, clarified that it is in line with the Protocol. BOLIVIA proposed text concerning dissemination of information on the identification of LMOs that may have adverse effects during the intersessional period for consideration at COP/MOP 6. PARAGUAY proposed that financial assistance and capacity building also be highlighted as a priority under this section.

The EU, with TURKEY and CROATIA, NIGERIA, NORWAY, MALAYSIA, ECUADOR and others, supported the continuation of the AHTEG on risk assessment and risk management. COLOMBIA, supported by HONDURAS, said that the AHTEG should be composed of scientific experts. MEXICO, supported by PARAGUAY, stressed that the work of the AHTEG be subject to peer review, including scientific review, to test its credibility. MEXICO noted that it may take longer than two years to operationalize the guidance document and the results of the peer review. The PHILIPPINES proposed an expanded AHTEG, with members who have “hands on experience.” Chair Seyani noted that the PHILIPPINES’ proposal would reopen already agreed upon text. Delegates then approved the draft decision as amended.

PUBLIC AWARENESS, EDUCATION AND PARTICIPATION: Delegates discussed a draft decision.

The REPUBLIC OF KOREA suggested adding a preambular reference recognizing the central role of the BCH in promoting public awareness, education and participation; and an operative reference encouraging the establishment of an advisory committee or using the informal BCH advisory committee to provide advice and guidance on the implementation of the work programme.

The EU, with TURKEY and CROATIA, opposed by many, requested deletion of a paragraph requesting the GEF to provide financial resources for implementing the work programme, noting that this should be discussed under the decision on the financial mechanism. After a lengthy procedural debate, the EU proposed that GEF “ensure that the programme of work on public awareness, education and participation concerning the safe handling and transport of LMOs is taken into account in activities carried out with GEF funding.” The draft decision was approved as amended.

FINANCIAL MECHANISM: Delegates considered a draft decision on financial mechanisms and resources. The EU, with TURKEY and CROATIA, made several proposals which were discussed by WG II, saying they were beyond the mandate of the GEF, or were “too specific,” they proposed deletion of recommendations to the GEF on, *inter alia*: funding biosafety projects outside the System for Transparent Allocation of Resources (STAR); and supporting the building of capacity to implement identification requirements of LMO-FFPs. GUATEMALA, supported by the AFRICAN GROUP, proposed that the GEF consider supporting the implementation of the Cartagena Protocol on Biosafety with the STAR mechanism by defining specific quotas for biosafety for each country, on the basis of the second national report on the implementation of the Cartagena Protocol. The EU noted that some of the proposals contained in the draft decision were tantamount to states “giving up their sovereign right to set priorities.” The decision was approved with text in brackets.

Negotiations on the WG II report continued into the night.

IN THE CORRIDORS

As the end of COP/MOP 5 was approaching, some delegates suspected that it was no coincidence that WG I finished its business almost a day ahead of schedule, while WG II had to go into overtime, extending its deliberations into a tiring night session. In their view the existence of an “easy going” and a “heavily loaded” group was the only way to ensure that the Interregional Negotiating Group on Access and Benefit-sharing

(ABS ING) would be allowed to meet during COP/MOP. The drawback however was that some of the draft decisions waved through in a hurry in the WGs came back to haunt delegates in the afternoon and evening as delegates requested re-opening already approved decisions to make “corrections” that threatened to waken some of the ghosts of COP/MOPs past, namely socio-economic considerations and risk assessment.

Others lamented that they were permanently distracted by “urgent matters” while they wished they had had more time to further discuss other items, for example to go beyond just “exploring the feasibility” of establishing special funding for implementing the Strategic Plan. Towards the end of the afternoon, one group was reportedly having problems keeping up with the procedure of approving decisions and addressing linkages with the guidance to the financial mechanisms, since its most experienced negotiators were already back in the ABS negotiations.

The Working Group rooms noticeably emptied as the ABS ING and small groups on ABS-related issues resumed in the afternoon. Discussions focused on the well-known controversies of derivatives, pathogens and the compliance and monitoring provisions of article 13. One delegate expressed satisfaction that “things are moving” and that at the very least, delegates are narrowing down their areas of disagreement. Still, one experienced observer remarked that the draft protocol resembled a “hologram:” it shows two completely different pictures depending on the angle from which you look at it.

Having conducted fruitful discussions on derivatives at recent meetings, delegates seemed close to reaching consensus on the concept of genetic resource utilization and benefit-sharing from derivatives. A main area of disagreement, however, emerged with regard to the conditions for access to derivatives, and specifically whether prior informed consent (PIC) would be required for access to derivatives not containing functional units of heredity, such as biochemical compounds. Delegates struggled to understand research realities, as well as technological advances: one end of the table argued that, for extracting venom from a snake, you have to “get pretty close” to the genetic resource, meaning that you cannot access it without PIC. On the other side of the table, it was reported that the scented air emerging from flowers was being vacuumed by machines to extract their essential oils – an incidence not covered if access to derivatives is not included. Although no consensus was reached, one delegate lauded these discussions for “openly addressing key issues in a technically well-informed way.” Others seemed puzzled, rather than enlightened, as they were having difficulties following the examples given.

Late evening discussions on article 13 reflected persistent divergences with regard to the legal nature of measures to support compliance, such as checkpoints. Would establishment of checkpoints be mandatory, as strongly supported by developing countries, or be left to parties’ discretion as suggested by developed country groups? And could a possible compromise lie in establishing a general mandatory requirement for establishment of checkpoints, leaving parties to select those checkpoints suited to their national conditions and circumstances?

ENB SUMMARY AND ANALYSIS: The Earth Negotiations Bulletin summary and analysis of COP/MOP 5 will be available on Monday, 18 October 2010 online at: <http://www.iisd.ca/biodiv/bs-copmop5/>