

CBD COP 10 HIGHLIGHTS THURSDAY, 21 OCTOBER 2010

Working Group I considered draft decisions on agricultural biodiversity, biofuels, invasive alien species (IAS), the Global Taxonomy Initiative (GTI) and incentive measures. Working Group II addressed the Global Strategy for Plant Conservation (GSPC) and Article 8(j) (traditional knowledge). ABS negotiations focused on emergency situations, traditional knowledge (TK), compliance and the preamble. Several contact and informal groups met during the day and into the night.

WORKING GROUP I

Delegates heard reports from the Friends of the Chair groups on sustainable use and geo-engineering, and from the contact group on marine and coastal biodiversity, with all groups requesting additional time to complete their work.

AGRICULTURAL BIODIVERSITY: Discussion focused on the second phase of the joint work plan between the CBD and the FAO Commission on Genetic Resources for Food and Agriculture (CGRFA). The PHILIPPINES, ECUADOR, the PACIFIC ISLANDS, the AFRICAN GROUP, the EU, NORWAY and MALAYSIA supported, opposed by AUSTRALIA, work on trends in patents and other intellectual property rights (IPRs). ETHIOPIA drew attention to rights of subsistence farmers in developing countries. NORWAY supported, while JAPAN, INDIA and CANADA opposed, CBD-CGRFA joint work on biofuels and biodiversity. The PHILIPPINES and TURKEY, opposed by ARGENTINA, requested reference to “impacts on land security” in this context.

Delegates debated three options referring to the conservation and sustainable management of biodiversity-rich agricultural areas, without reaching agreement. SWITZERLAND requested increased attention to smallholders and small-scale farmers. The CBD ALLIANCE further emphasized the role of indigenous farmers, and called for land rights security. The IIFB posed questions related to food security and sovereignty, and climate change.

BIOFUELS: BRAZIL stated that the Global Bioenergy Partnership (GBEP) is the most appropriate international forum to discuss biofuels, suggesting that the CBD contribute to the UN Energy compilation of policy tools. The AFRICAN GROUP, JAPAN, SWITZERLAND, JAMAICA and INDIA favored a call to ensure ILCs’ land rights and sustainable practices and redress negative impacts on ILCs, while BRAZIL opposed reference to “land rights.”

BRAZIL, the PACIFIC ISLANDS, the DOMINICAN REPUBLIC, JAPAN and EL SALVADOR preferred requesting the CBD to disseminate information on tools on biofuels and biodiversity for voluntary use. The AFRICAN GROUP, SWITZERLAND, KENYA, CUBA and the ARAB COUNTRIES favored instead that the CBD develop a toolkit of standards and methodologies on biofuels and biodiversity. BRAZIL opposed, while the AFRICAN GROUP and the RUSSIAN FEDERATION supported, the development of inventories of “no-go” areas.

Invasive alien species: BRAZIL opposed a call to apply the precautionary approach to the production and use of biofuels, and to the use of IAS in biofuel production. The PACIFIC ISLANDS, SWITZERLAND, INDIA, the RUSSIAN FEDERATION and the AFRICAN GROUP favored applying the precautionary approach to the use of IAS in biofuel production and use; while the DOMINICAN REPUBLIC, JAPAN, PARAGUAY, MALAWI, JAMAICA and NEW ZEALAND preferred applying the precautionary approach if species used in biofuel production become invasive.

Synthetic biology: BRAZIL opposed convening an AHTEG and requested parties to avoid release of LMOs produced by synthetic biology into the environment. The PACIFIC ISLANDS preferred undertaking an assessment of synthetic biology, rather than convening an AHTEG. NEW ZEALAND suggested that synthetic biology be addressed intersessionally as a new and emerging issue. Chair Hufler established a contact group co-chaired by Ole Hendrickson (Canada) and Giannina Santiago (Colombia).

INVASIVE ALIEN SPECIES: Chair Hufler informed delegates that Spain pledged funding for the proposed AHTEG on IAS introduced as pets, aquarium and terrarium species, and as live bait and live food. The EU, BELARUS, NORWAY, THAILAND, the REPUBLIC OF KOREA, COSTA RICA, ARGENTINA and the AFRICAN GROUP, opposed by BRAZIL, AUSTRALIA, MALAYSIA and NEW ZEALAND, recommended that the AHTEG provide practical guidance on the development of international standards. SOUTH AFRICA proposed that the AHTEG develop “scientific and technical” guidance on international standards. TANZANIA proposed reference to ILCs’ involvement in addressing issues of IAS and TK. Supporting the AHTEG, the GLOBAL INVASIVE SPECIES PROGRAMME stressed the need for guidance for national implementation. Chair Hufler encouraged informal consultations to resolve divergence on international standards.

GLOBAL TAXONOMY INITIATIVE: Several delegates supported in principle reference to: exchange of taxonomic voucher specimens for non-commercial biodiversity research, and regional and subregional scientific and technical collaboration in accordance with relevant national legislation; and priority for funding to support taxonomic capacity to inventory and monitor biodiversity, including the use of new technologies, such as DNA barcoding. Pending negotiations on the ABS protocol and on guidance to the financial mechanism, delegates decided to leave these in brackets. TANZANIA stressed the need for incentives to professional taxonomists. BRAZIL called for protection of national taxonomic collections in developing countries.

INCENTIVE MEASURES: Many parties supported deleting text urging parties and others to prioritize and significantly increase their efforts in actively identifying and removing or mitigating existing perverse incentives. There was, however, no agreement on the inclusion of specific references to industries. Delegates also considered text on the implementation of sustainable consumption and production patterns. CANADA, supported by SWITZERLAND, proposed to reference the TEEB study.

WORKING GROUP II

GLOBAL STRATEGY FOR PLANT CONSERVATION:

MALAYSIA supported the updated GSPC and targets, with the PHILIPPINES adding that they should correspond to the post-2010 targets in the strategic plan. JAPAN welcomed the more outcome-oriented targets. The EU stressed the need to include protection of plant diversity into national policies and the contribution of diverse croplands to food security. MEXICO and NEW ZEALAND welcomed the GSPC as a flexible framework to be adapted to national and local priorities and, with the PHILIPPINES, SINGAPORE and BENIN, drew attention to fungi. COSTA RICA highlighted linkages of the GSPC with biofuels and climate change. FAO pointed to synergies at the national level between GSPC and related areas such as agriculture. BENIN suggested including pollinators. CANADA requested further work on the technical rationale for the GSPC. GUATEMALA called for integration of indigenous knowledge and more holistic approaches. INDONESIA and SOUTH AFRICA stressed capacity building, with ZIMBABWE calling for focus on TK in the use and taxonomy of plants.

BRAZIL, TIMOR LESTE and others underscored the need for financing and technology transfer. The AFRICAN GROUP and others supported the proposal to seek resources for a Secretariat post for GSPC coordination beyond 2010. Pointing to the lack of taxonomists, the REPUBLIC OF KOREA called for international exchange of experts and expertise. SOUTH AFRICA stressed inclusion of crucial biological information in public access databases.

ARTICLE 8(J): ILC participation: The EU and the AFRICAN GROUP stressed capacity building and full and effective participation of ILCs in all CBD decision-making processes, with BRAZIL pointing to the special role of indigenous women in TK preservation. PERU underscored PIC as part of ILCs' management regimes and called for capacity building especially on negotiating ABS arrangements. INDONESIA called for the protection of ILCs' rights to TK and fair and equitable benefit-sharing. The AFRICAN GROUP stated that ILCs should reap the benefits of TK use.

Article 8(j) MYPOW: The EU and CANADA supported: the inclusion of a component on CBD Article 10 (sustainable use) with a focus on 10(c) (customary use); an international meeting on the issue; and an in-depth dialogue on thematic areas and cross-cutting issues, suggesting, with NORWAY and BOLIVIA,

climate change as the first item for Article 8(j) Working Group 7. BRAZIL opposed, recalling UNFCCC's mandate. MEXICO stressed the need for adequate resources for the Article 8(j) MYPOW and THAILAND proposed requesting the GEF to provide support for related activities. The EU and BRAZIL supported an AHTEG on common characteristics and effective participation of local communities. The REPUBLIC OF KOREA called for a definition of TK and its scope, and of ILCs' legal status. UNESCO proposed indicators on linguistic diversity.

Sui generis systems: The EU called for full ILC participation and, with NEW ZEALAND, recommended that the Secretariat continue to inform the WIPO IGC on CBD work in that regard. The AFRICAN GROUP said that knowledge accessed through *sui generis* systems should be protected to ensure benefit-sharing. BOLIVIA and the IIFB drew attention to the limited progress on development of *sui generis* systems and urged for working jointly with indigenous peoples.

Code of ethical conduct: The EU called for adoption of the code to guide interactions with ILCs and protect TK. INDIA suggested awaiting the outcome of the ABS negotiations. BOLIVIA and the IIFB requested reference to free PIC of indigenous peoples in accordance with UNDRIP. BRAZIL supported the inclusion of PIC, rather than references to "approval and involvement of ILCs." She also called for careful consideration of outstanding references to lands and waters traditionally occupied or used, to ensure that the code will apply to any activity affecting ILCs. MOROCCO suggested considering ILC laws, practices and protocols, and recognizing TK as a tool for conservation. CANADA suggested informal consultations to address outstanding issues.

INFORMAL CONSULTATIVE GROUP ON ABS

EMERGENCY SITUATIONS: Small group Co-Chair de Carvalho Neto reported on outstanding issues with regard to the definition of emergency situations and the need to include reference to specific international organizations addressing potential damage to human, animal or plant health. In the afternoon, the small group narrowed down options for describing emergencies to "present" or "imminent" emergencies.

TRADITIONAL KNOWLEDGE: Small group Co-Chair Lowe reported on progress on appropriate measures for compliance with domestic ABS legislation on TK associated with genetic resources (Article 12 *bis*), with outstanding issues regarding references to derivatives and whether to refer to parties' or countries' legislation. Upon a request by CANADA, delegates agreed to requesting parties to take "appropriate measures, as appropriate."

On assessment of the effectiveness of Articles 12 *bis* and 9.5 on publicly available TK, the EU requested inserting, in the COP decision, language stating that the assessment should be carried out "in the light of developments at the international level, in particular work conducted under WIPO." All developing country regions opposed referencing WIPO. Delegates discussed options to broaden the provision, and eventually agreed to refer to "work achieved under other international organizations, *inter alia*, WIPO, provided that these do not run counter to the objectives of the Convention or the protocol."

A small group on the provision on publicly available TK did not resolve outstanding issues, as delegates disagreed over: whether or not to include language describing publicly available TK; and whether or not to use binding or non-binding language with regard to the measures that parties should take.

PREAMBLE: In the afternoon, ICG discussions on preambular paragraphs were suspended, as several regional groups requested time to consult on new text that had been proposed in a small group on Wednesday.

COMPLIANCE: In the morning, the small group considered, without reaching agreement, language on checkpoints, including on: consequences of the failure to provide relevant information; whether to require or encourage users and providers to address implementation and reporting in MAT; and language on encouraging the use of cost-effective communication tools for monitoring or also tracking and reporting the utilization of genetic resources. Delegates then debated the usefulness of databases to support compliance, with most developing countries preferring deletion, without reaching agreement.

In the afternoon, delegates addressed an access-related measure regarding issuance of a permit or certificate as evidence of the decision to grant PIC and of the establishment of MAT (article 5(2)(d)). Delegates recognized that the provision refers to a national permit and the need to avoid confusion with the internationally recognized certificate of compliance. A lengthy discussion ensued, focusing on whether issuance of the permit should take place "at the time of access," with developed countries supporting retaining the reference for legal clarity. Discussion then focused on possible duplication and the need for consistency between: the permit referenced under article 5(2)(d); the permit referenced under article 13(2), stating that the permit made available to the ABS CHM shall constitute an internationally recognized certificate of compliance; and two paragraphs requiring parties to make PIC decisions available to the ABS CHM (articles 5(3) and 11(2)(c)). Noting that the permit under 5(2)(d), following registration with the CHM, constitutes the international certificate of compliance, delegates attempted to clarify the relation between the provisions. Some proposed deleting article 5(3) to avoid confusion. Others wished to ensure that the protocol creates a mandatory obligation for a party to make its PIC decision available and issue an internationally recognized certificate. Following closed consultations, delegates introduced a footnote under articles 5(3) and 11(2)(c), noting that the provisions need to be finalized considering the relation between them and to articles 5(2)(d) and 13(2).

CONTACT GROUPS AND INFORMALS

CLIMATE CHANGE: Delegates discussed options to advance collaboration among the Rio Conventions, focusing on whether to: request parties or the Secretariat to take the lead; refer to a joint work programme, or only to joint activities; and outline as interim steps a joint preparatory meeting and a joint COP. Several parties and one non-party expressed concern about the already over-burdened agenda of the UNFCCC.

Delegates considered: eliminating reference to the joint work programme; mentioning the difference in mandate and membership of the Rio Conventions; and consulting the bureau of the preparatory process of the Rio+20 Summit on developing its agenda, and submitting the outcome to the respective COPs. Chair Benitez proposed forming a small group to continue discussions, and resuming the contact group on Friday to address outstanding text on REDD+.

STRATEGIC PLAN: Delegates addressed the strategic goals and the 2020 headline targets. Discussions started off with the target on the values of biodiversity to be integrated into national and local development and poverty reduction strategies and planning processes. Some developed countries supported integration of biodiversity values into "national accounts," others proposed reference to "national accounting and reporting framework," while others preferred "systems." Many developing countries were cautious about references to national accounts, whereas others pointed to the advantages of accounting for biodiversity values. Delegates finally agreed to refer to "national

accounting and/or reporting systems" with "or" remaining in brackets, since some developed countries insisted on requiring both.

Regarding the target on incentives, all countries agreed to references to positive incentives. While developing and many developed countries favored strong reference to elimination of subsidies, other developed countries opposed that. Finally, delegates agreed to state that "by 2020, at the latest, incentives, including subsidies, harmful to biodiversity, are eliminated, phased out or reformed, in order to minimize or avoid negative impacts." References to consistency with international obligations were left to a smaller group. Negotiations continued into the night.

FINANCIAL ISSUES: The group addressed a Co-Chairs' proposal on the financial mechanism, which included text agreed by WGRI 3. Delegates addressed the review of guidance to the financial mechanism, including annexed consolidated guidance. Delegates did not agree on provisions referring to previous decisions and elements of decisions related to the financial mechanism and on retirement of decisions, and decided to revisit the section on Friday. Delegates then considered part of the decision referring to the TORs for the assessment of funds needed for CBD implementation for the GEF's sixth replenishment. Discussions continued into the evening.

IN THE CORRIDORS

"Crisis, this is a crisis! They just haven't realized it yet," mumbled a disillusioned ABS participant on his way out of the meeting room on Thursday evening. After a day of treading water on almost all issues, delegates became visibly nervous as the deadline to report to plenary on Friday was almost upon them. Tensions rose as evening discussions on compliance were stalled over cross-references to permits and certificates, the resolution of which some considered "essential" for moving on, while others described it as a "strategic move." As night fell over Nagoya, delegates were "saved by a footnote," allowing them to continue deliberations. Getting ready for another late night session, one delegate exclaimed "We will die one way or the other! If it is not compliance, the pathogens will kill us!" referring to the most contentious debate regarding the ABS protocol's relationship with other agreements, due to be finalized on Friday morning.

Following the launch of the TEEB study, accounting seemed to be pervading the corridors. Accounting for biodiversity values in national accounts was included under the strategic plan. Elsewhere, many discussed what ABS activities must be provided for in the CBD core budget. The proposal not to include any, in hopes of addressing the operational requirements of an international ABS regime in a supplementary budget after the regime's adoption was termed "optimistic" by some and "inadequate" by others; but all seemed to agree that one way or another, substantive funds would be required for ABS activities in the next biennium.

Meanwhile, under WG I, a drafting group was tackling a package of provisions concerning the role of the CBD vis-à-vis the UN General Assembly in addressing marine biodiversity in areas beyond national jurisdiction. Delegates speculated whether the proposal of developing a global inventory of marine areas in need of protection in areas beyond national jurisdiction will see the light of day. Informal exchanges also continued on a possible moratorium on geo-engineering, with conjecture surrounding the possible fate of one of the conditions for lifting the moratorium, namely the setting up of a global regulatory framework.



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