

WTO Committee on Trade and Environment in Regular Session, 17 February 2010

**Statement on behalf of the
Executive Secretary of the Convention on Biological Diversity**

Mr. Chairman,
Distinguished delegates,

I am pleased to brief you on recent developments under the Convention on Biological Diversity.

As you may know, the United Nations General Assembly proclaimed 2010 the International Year of Biodiversity, to coincide with the deadline adopted by Governments in 2002 to achieve a significant reduction in the rate of loss of biodiversity by 2010. Launched by German Chancellor Angela Merkel and United Nations Secretary General Ban Ki Moon on 11 January 2010, the International Year of Biodiversity will provide opportunities to celebrate the diversity of life on the planet and its critical contribution to human well-being, while working to take the steps needed to combat its loss. An event of particular importance will be the high level meeting on biological diversity of the United Nations General Assembly, which will take place in September 2010.

Against this backdrop, a number of important meetings of subsidiary bodies of the Convention on Biological Diversity will take place in 2010 to prepare the decisions of the tenth meeting of the Conference of the Parties to the Convention (COP-10) and the fifth meeting of the Parties to the Cartagena Protocol on Biosafety, which will convene in October 2010 in Nagoya, Japan. These meetings are taking place at a critical juncture in the life of the Convention, as the Conference of the Parties will assess attainment of the global 2010 biodiversity target and adopt a new and updated strategic plan for the Convention.

The scheduled adoption, by COP-10, of the International Regime on Access and Benefit-sharing related to genetic resources is of equal strategic importance. The International Regime is of particular relevance to the work of this Committee and the WTO.

As you know, the fair and equitable sharing of the benefits arising out of the utilization of genetic resources is one of the three main objectives of the Convention. The Convention foresees facilitated access to genetic resources in exchange for the fair and equitable sharing of the benefits arising out of the utilization of those genetic resources, based on four fundamental principles, namely:

- States have sovereign rights over their natural resources, including genetic resources;
- Parties shall facilitate access to genetic resources for environmentally sound uses;
- Access to genetic resources, where granted, as well as the fair and equitable sharing of benefits arising out of the utilization of these genetic resources, shall be on mutually agree terms;

- Access shall be subject to the prior informed consent of the Party providing such resources.

With a view to give effect to the pertinent provisions of the Convention, you will recall that the Conference of the Parties to the CBD, following up on a call by Heads of States and Governments at the World Summit on Environment and Sustainable Development, in Johannesburg, in 2002, launched the negotiation of an International Regime on Access and Benefit-sharing related to genetic resources and associated traditional knowledge.

In May 2008, the ninth meeting of the Conference of the Parties to the CBD instructed the relevant Subsidiary Body – the Working Group on Access and Benefit-Sharing – to continue, and finalize, the negotiation of the International Regime on access and benefit-sharing prior to the tenth meeting of the Conference of the Parties, in October 2010.

The Working Group has met twice since then and has made considerable progress in the negotiation of the Regime. At its most recent meeting, in November 2009, the Working Group succeeded in putting together, for the first time, a single negotiating text embodying all the chapters and elements of the International Regime.

The next - and final - meeting of the Working Group will be held from 22 to 29 March 2010, in Cali, Colombia. Its objective will be to reach consensus on the text of the International Regime with a view to its submission for adoption by the Conference of the Parties at its tenth meeting, in Nagoya, next October.

With regard to the nature of the International Regime, while some differences of views remain, the Co-Chairs of the Working Group pointed out at the end of the recent meeting that there is a preponderant understanding among Parties that the negotiations aim at finalizing a draft protocol to the Convention on Biological Diversity.

The chapters dealing with traditional knowledge and capacity have reached a very advanced stage of negotiation. There is broad agreement, in particular, on the wording of provisions in the International Regime to ensure that the utilization of traditional knowledge associated with genetic resources is subject to the prior informed consent of the indigenous and local communities concerned and to mutually agreed terms for the sharing of benefits deriving from the use of such knowledge.

However, more work remains to be done with respect to the scope of application of the International Regime, which involves clarifying the exact meaning of some key terminology and concepts.

More work is also required on the other three main components, namely: fair and equitable benefit-sharing, access, and compliance.

With regard to benefit-sharing and to access, the concepts under consideration include the development of international minimum conditions and standards related to access, the development of model clauses for material transfer agreements, as well as the non-

discrimination of access rules. The possibility of having simplified access rules for non-commercial research and taxonomy is also under consideration.

An important topic in the negotiations is how to monitor and enforce compliance with national ABS requirements once the genetic resources have left the country of origin. In this regard, the negotiators are considering a number of measures and tools, some of which are of particular interest to the work of the WTO:

- Clarification of the concepts of misappropriation and misuse of genetic resources;
- Identification of best practices and codes of conduct for groups of users;
- the possible introduction of internationally recognized certificates issued by competent national authorities;
- The possible introduction of disclosure requirements for patent applications; and
- Measures to facilitate access to justice.

The challenge ahead is to forge consensus on these issues to the benefits of all Parties and stakeholders by providing a clear, simple and transparent framework for access and benefit sharing which provides legal certainty for both providers and users of genetic resources.

Additional background information is available on the web portal for the negotiations for the international regime, under <http://www.cbd.int/abs/ir/> , as well as in form of a number of fact sheets, which are made available outside of this room.

Mr. Chairman,

A number of measures contemplated in the International Regime on Access and Benefit-sharing relate to the work of this Committee and the WTO. I believe this points to the continued need for close cooperation between our organizations with a view to ensuring harmonization and mutual supportiveness. In this regard, I can assure you of the full cooperation of the CBD Secretariat to further advance our good working relationship with the WTO.

I thank you for your attention.