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AD HOC OPEN-ENDED WORKING GROUP ON ACCESS AND BENEFIT-SHARING

Ninth meeting

Cali, Colombia, 22-28 March 2010

Item 2 of the provisional agenda*

ORGANIZATIONAL MATTERS

Annotated provisional agenda

INTRODUCTION

1. In paragraph 2 of its decision IX/12, the Conference of the Parties reiterated its instruction to the Ad Hoc Open-ended Working Group on Access and Benefit-sharing to complete the elaboration and negotiation of the international regime on access and benefit-sharing at the earliest possible time before the tenth meeting of the Conference of the Parties. In paragraph 5 of the same decision, it decided that the Working Group should meet three times prior to the tenth meeting of the Conference of the Parties.

2. In paragraph 7 of the decision, the Conference of the Parties further decided “that, subject to the availability of funds, each of these working group meetings will be held over the duration of seven consecutive days and that the purpose of these working group meetings will be as follows unless otherwise proposed by the Parties at the meetings and decided by the Bureau in consultation with the Co-Chairs:

“(a) *Seventh meeting.* Negotiation of operational text on the objective, scope, compliance, fair and equitable sharing, access;

“(b) *Eighth meeting.* Negotiation of operational text on nature, traditional knowledge associated with genetic resources, capacity-building, compliance, fair and equitable benefit-sharing, access;

“(c) *Ninth meeting.* Consolidation of all operational text developed at the seventh and eighth meetings of the Working Group.”

3. The seventh meeting of the Working Group on Access and Benefit-sharing was held in Paris from 2 to 9 April 2009 and its eighth meeting was held in Montreal from 9 to 15 November 2009.

4. The ninth meeting of the Working Group will be held in Cali, Colombia, from 22 to 28 March 2010. Information regarding logistical arrangements for the meeting, including registration, information

* UNEP/CBD/WG-ABS/9/1.

on travel, visa requirements, accommodation and related matters will be provided in a document entitled “Information for participants” available on the Secretariat website at: <http://www.cbd.int/doc/meetings/>.

5. The documents for the meeting are listed in annex I and will be available on the Secretariat’s website at the same address as they are finalized.

ITEM 1. OPENING OF THE MEETING

6. The meeting will be opened by the Co-Chairs of the Working Group. The Executive Secretary will make introductory remarks.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Officers

7. The meeting will be chaired by Mr. Fernando Casas of Colombia and Mr. Timothy Hodges of Canada, who were elected as Co-Chairs of the Working Group by the Conference of the Parties in decision VIII/4. The Bureau of the Conference of the Parties will serve as the Bureau of the Working Group. In accordance with rule 21 of the rules of procedure of the Conference of the Parties, the Bureau will designate one of its members to act as Rapporteur.

2.2. Adoption of the agenda.

8. The Working Group may wish to adopt its agenda on the basis of the provisional agenda (UNEP/CBD/WG-ABS/9/1), which was prepared by the Secretariat in close cooperation with the Co-Chairs on the basis of decision IX/12, and was approved by the Bureau.

2.3. Organization of work

9. It is proposed that the Working Group conduct its work in plenary, with the understanding that contact groups may be established, as needed, to address specific agenda items depending on progress in the negotiations and keeping in mind the need to make the most effective use of the time available. With these considerations in mind, an indicative timetable is appended in annex II below. However, it should be noted that the Co-Chairs intend to address this matter further in advance through a scenario note and during open-ended informal consultations, to be held on 21 March 2010, the day before the official opening of the meeting.

10. Interpretation will be provided in the six official languages of the United Nations for the plenary sessions of the meeting.

ITEM 3. INTERNATIONAL REGIME ON ACCESS AND BENEFIT-SHARING: CONSOLIDATION OF OPERATIONAL TEXTS DEVELOPED AT THE SEVENTH AND EIGHTH MEETINGS OF THE AD HOC OPEN-ENDED WORKING GROUP ON ACCESS AND BENEFIT-SHARING

11. In accordance with decision IX/12, paragraph 7 (c), the Working Group at its ninth meeting is to consolidate all operational text developed at the seventh and eighth meetings of the Working Group.

12. The report of the eighth meeting of the Working Group (UNEP/CBD/WG-ABS/8/8) includes in its annex I, the outcomes of the seventh and eighth meetings of the Working Group on the international regime on access and benefit-sharing. Annex II to that report contains proposals for operational texts left in abeyance for consideration at the ninth meeting of the Working Group.

13. As stated by the Co-Chairs at the eighth meeting of the Working Group, “in order to preserve the integrity of annex I, no further submissions on main components for annex I were requested. Changes could be made only during the negotiating process with a view to achieving consensus. However, new submissions would be allowed for preambular text, definitions and text for inclusion in annex II. The Co-Chairs reminded participants that submissions should be made, if possible, at least 60 days prior to the ninth meeting of the Working Group on Access and Benefit-sharing”.¹

14. In light of the above, a notification was sent out to Parties, other Governments, international organisations, indigenous and local communities, and relevant stakeholders inviting them to submit contributions to the Secretariat in accordance with the above. In line with usual practice, the submissions received will be collated by the Executive Secretary and made available as soon as possible before the ninth meeting of the Working Group as document UNEP/CBD/WG-ABS/9/2. In addition, all submissions received will be posted on the webpage of the meeting at <http://www.cbd.int/doc/?meeting=ABSWG-09>.

15. For ease of reference, annex I to decision IX/12 is reproduced as document UNEP/CBD/WG-ABS/7/7 and the report of the eighth meeting of the Working Group is available as document UNEP/CBD/WG-ABS/8/8.

16. In accordance with the proposal for inter-sessional work presented by the Co-Chairs at the eighth meeting of the Working Group,² the report of the meeting of the Friends of the Co-Chairs held in Montreal from 26 to 29 January 2010 (UNEP/CBD/WG-ABS/9/3) will be made available to the Group.

17. The reports of the three expert group meetings addressing respectively “concepts, terms, working definitions and sectoral approaches”, “compliance” and “traditional knowledge associated with genetic resources” are respectively available as documents UNEP/CBD/WG-ABS/7/2, UNEP/CBD/WG-ABS/7/3 and UNEP/CBD/WG-ABS/8/2.

18. In addition, as requested at the eighth meeting of the Working Group, the Executive Secretary commissioned, “in the context of “traditional knowledge and associated traditional knowledge”, a short review paper “on the history of the concept of “genetic resources” as it emerged and keeps evolving in the context of:

“(a) *Ex situ* collections, such as gene banks and data bases;

“(b) ‘Bio-economy’, i.e. the emerging competitive global market based on genetic resources;

“(c) The rapid developments of modern biotechnology and biochemistry, including genomics, proteomics and synthetic biology.”³

19. As requested by the Working Group, the review paper will be submitted to the Parties for their consideration before the ninth meeting of the Working Group, in order to assist Parties to arrive at a better understanding of the concept of “genetic resources” as it relates to traditional knowledge and to elaborate the international regime with the inclusion of traditional knowledge based on an adequate concept and/or concepts. The review will build on the report of the Group of Legal and Technical Experts on Concepts, Terms, Working Definitions and Sectoral Approaches (UNEP/CBD/WG-ABS/7/2) and add the relevant aspects related to traditional knowledge. The review paper will be made available as an information document (UNEP/CBD/WG-ABS/9/INF/1).

¹ Report of the eighth meeting of the Working Group on Access and Benefit-sharing (UNEP/CBD/WG-ABS/8/8), para. 113.

² Ibid., paras. 116-132.

³ Ibid., para. 131.

20. The studies on the following topics commissioned in response to a request in paragraph 13 of the decision IX/12 and initially made available for the seventh meeting of the Working Group are also available as information documents for this meeting:

“(a) Recent developments in methods to identify genetic resources directly based on DNA sequences (UNEP/CBD/WG-ABS/7/INF/2);

“(b) To identify the different possible ways of tracking and monitoring genetic resources through the use of persistent global unique identifiers, including the practicality, feasibility, costs and benefits of the different options (UNEP/CBD/WG-ABS/7/INF/2);

“(c) How an international regime on access and benefit-sharing could be in harmony and be mutually supportive of the mandates of and coexist alongside other international instruments and forums which govern the use of genetic resources, such as the FAO International Treaty on Plant Genetic Resources for Food and Agriculture (UNEP/CBD/WG-ABS/7/INF/3/Parts 1-3);

“(d) Comparative study of the real and transactional costs involved in the process of access to justice across jurisdictions (UNEP/CBD/WG-ABS/7/INF/4);

“(e) How can compliance be ensured in conformity with the customary law of indigenous peoples and local communities, national law, across jurisdictions, and international law, including human rights and trade? (UNEP/CBD/WG-ABS/7/INF/5).

21. With the financial and technical support of UNEP, and in collaboration with the Co-Chairs of the Working Group, the following regional consultations have been or will be held with a view to facilitating the finalization of the international regime:

- Regional consultations for Asia (Siem Reap, Cambodia, 4-6 December 2009)
- Regional consultations for the Latin American and Caribbean countries (Panama City, 15-16 January 2010)
- Regional consultations for the Central Eastern European countries (Isle of Vilm, Germany, 9-10 February 2010)
- Regional consultations for the Pacific countries (Auckland, New Zealand, 15-16 February 2010)
- Regional consultations for Africa (Windhoek, Namibia, 4-6 March 2010)

22. The reports of these regional consultations will be made available as information documents.

23. As announced by the Co-Chairs at the eighth meeting of the Working Group, two distinct meetings are being held during the intersessional period between the eighth and ninth meetings of the Working Group: the meeting of the Friends of the Co-Chairs (FOCC) in Montreal from 26 to 29 January 2010 and the Co-Chairs Informal Interregional Consultations (CIIC), in Colombia, from 16 to 18 March 2010. The Co-Chairs will report to the Working Group on the outcomes of these meetings.

ITEM 4. OTHER MATTERS

24. Under this item, the Working Group may wish to discuss the content of a draft decision on the adoption of the international regime on access and benefit-sharing to be submitted to the tenth meeting of the Conference of the Parties.

25. There is also a need to address the revision of the Strategic Plan in order to ensure that due consideration is given to access and benefit-sharing in the revised Strategic Plan to be adopted by the Conference of the Parties at its tenth meeting. In this connection, it will be recalled that the Conference of the Parties, in paragraph 7 of decision VII/30, requested the Working Group “to explore the need and possible options for indicators for access to genetic resources and in particular for the fair and equitable sharing of benefits arising from the utilization of genetic resources and to report the results to the Conference of the Parties at its eighth meeting.”

26. In paragraph 1 of decision VIII/4 E, on access and benefit-sharing, the Conference of the Parties requested the Working Group at its fifth meeting “to further address this issue of the need and possible options for indicators for access to genetic resources and the fair and equitable sharing of benefits arising out of the utilization of genetic resources.” In accordance with this decision, the Working Group considered this issue as one of its agenda items at its fifth meeting, held in Montreal in October 2007. At this meeting, there was general agreement that consideration of this item should be deferred to a future date, and the issue has not been addressed since.

27. Considering that the ninth meeting of the Working Group is the last before the tenth meeting of the Conference of the Parties and that a revised Strategic Plan will be considered for adoption at that meeting and taking into account that, in accordance with the preamble of decision IX/9, “...the Strategic Plan should cover the three objectives in a balanced manner”, Parties may wish to take this opportunity to agree on a way forward in order to ensure that access and benefit-sharing is duly considered in the new Strategic Plan.

28. An informal expert consultation on “ABS within the CBD Strategic Plan” was organized by the United Nations University Institute of Advanced Studies (IAS/UNU), in consultation with the Co-Chairs of the Working Group and the United Nations Environment Programme (UNEP). The outcomes of this meeting, held in Yokohama, Japan, on 18-19 December 2009, will be made available as an information document (UNEP/CBD/WG-ABS/9/INF/7).

29. Finally, under this item participants may wish to raise any other matters related to the subject-matter of the meeting.

ITEM 5. ADOPTION OF THE REPORT

30. The Working Group will consider and adopt its report, on the basis of the draft report of the meeting to be presented by the Rapporteur.

ITEM 6. CLOSURE OF THE MEETING

31. The meeting is expected to be closed at 6 p.m. on Sunday, 28 March 2010.

Annex I

**DOCUMENTATION FOR THE NINTH MEETING OF THE AD HOC OPEN-ENDED
WORKING GROUP ON ACCESS AND BENEFIT-SHARING**

<i>Symbol</i>	<i>Title</i>
UNEP/CBD/WG-ABS/9/1	Provisional agenda
UNEP/CBD/WG-ABS/9/1/Add.1	Annotated provisional agenda
UNEP/CBD/WG-ABS/9/2	Collation of submissions provided in relation to preambular text, definitions and text for inclusion in annex II to the report of the eighth meeting of the Working Group on Access and Benefit-sharing
UNEP/CBD/WG-ABS/9/INF/1	Review paper on the history of the concept of “genetic resources”
UNEP/CBD/WG-ABS/9/INF/2	Report of the regional consultations for Asia
UNEP/CBD/WG-ABS/9/INF/3	Report of the regional consultations for GRULAC
UNEP/CBD/WG-ABS/9/INF/4	Report of the regional consultations for CEE
UNEP/CBD/WG-ABS/9/INF/5	Report of the regional consultations for Pacific countries
UNEP/CBD/WG-ABS/9/INF/6	Report of the regional consultations for Africa
UNEP/CBD/WG-ABS/9/INF/7	Outcomes of informal expert consultation on “ABS within the CBD Strategic Plan”, held in Yokohama, Japan on 18-19 December 2009,
http://www.cbd.int/doc/?meeting=ABSWG-09	Submissions provided by Parties, other Governments, international organizations, indigenous and local communities and relevant stakeholders related to the International Regime on access and benefit-sharing
UNEP/CBD/WG-ABS/8/2	Report of the meeting of the Group of Legal and Technical Experts on Traditional Knowledge associated with Genetic Resources
UNEP/CBD/WG-ABS/8/8	Report of the eighth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing
UNEP/CBD/WG-ABS/7/2	Report of the meeting of the Group of Legal and Technical Experts on Concepts, Terms, Working Definitions and Sectoral Approaches
UNEP/CBD/WG-ABS/7/3	Report of the meeting of the Group of Legal and Technical Experts on Compliance in the Context of the International Regime on Access and Benefit-sharing
UNEP/CBD/WG-ABS/7/7	Decision IX/12, annex I

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<i>Symbol</i>	<i>Title</i>
UNEP/CBD/WG-ABS/7/INF/2	Study on the identification, tracking and monitoring of genetic resources
UNEP/CBD/WG-ABS/7/INF/3/Part 1	Study on the relationship between the International Regime and other international instruments that govern the use of genetic resources – The International Treaty on Plant Genetic Resources for Food and Agriculture and the Commission on Genetic Resources for Food and Agriculture of the Food and Agriculture Organization of the United Nations
UNEP/CBD/WG-ABS/7/INF/3/Part 2	Study on the relationship between the International Regime and other international instruments that govern the use of genetic resources – The World Trade Organization (WTO); the World Intellectual Property Organization (WIPO); and the International Union for the Protection of New Varieties of Plants (UPOV)
UNEP/CBD/WG-ABS/7/INF/3/Part 3	Study on the relationship between the International Regime and other international instruments that govern the use of genetic resources – The Antarctic Treaty System (ATS) and the United Nations Convention on the Law of the Sea (UNCLOS)
UNEP/CBD/WG-ABS/7/INF/4	Comparative study of the real and transactional costs involved in the process of access to justice across jurisdictions
UNEP/CBD/WG-ABS/7/INF/5	Study on compliance in relation to the customary law of indigenous peoples and local communities, national law, across jurisdictions, and international law.

Annex II

**PROPOSED ORGANIZATION OF WORK FOR THE NINTH MEETING OF THE AD HOC
OPEN-ENDED WORKING GROUP ON ACCESS AND BENEFIT-SHARING**

	<i>Plenary</i>
<i>Monday, 22 March 2010</i> 10 a.m. to 1 p.m. 3 – 6 p.m.	Item 1. Opening of the meeting. Item 2. Organizational matters: 2.1. Officers; 2.2. Adoption of the agenda; 2.3. Organization of work. Item 3. International regime on access and benefit-sharing: consolidation of operational texts developed at the seventh and eighth meetings of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing. Item 3 (<i>continued</i>)
<i>Tuesday, 23 March 2010</i> 10 a.m. to 1 p.m. to <i>Saturday, 27 March 2010</i> 3 – 6 p.m.	Item 3. (<i>continued</i>)
<i>Sunday, 28 March 2010</i> 3-6 p.m.	Item 4. Other matters Item 5. Adoption of report Item 6. Closure of the meeting
