



Convention on Biological Diversity

Distr.
GENERAL

UNEP/CBD/ABS/GTLE/3/1/Add.1/Rev.1
2 June 2009

ORIGINAL: ENGLISH

GROUP OF TECHNICAL AND LEGAL EXPERTS ON TRADITIONAL KNOWLEDGE ASSOCIATED WITH GENETIC RESOURCES IN THE CONTEXT OF THE INTERNATIONAL REGIME ON ACCESS AND BENEFIT-SHARING

Hyderabad, India, 16-19 June 2009
Item 2 of the provisional agenda*

REVISED ANNOTATIONS TO THE PROVISIONAL AGENDA

INTRODUCTION

1. The meeting of the Group of Technical and Legal Experts on Traditional Knowledge Associated with Genetic Resources in the Context of the International Regime on Access and Benefit-sharing is being held pursuant to decision IX/12 of the Conference of the Parties to the Convention on Biological Diversity.
2. In paragraph 11 of this decision, the Conference of the Parties decided to establish three distinct groups of technical and legal experts. In accordance with paragraph 1 of section C of annex II to the decision, the Group of Technical and Legal Experts is established to further examine the issue of traditional knowledge associated with genetic resources in order to assist the Ad Hoc Open-ended Working Group on Access and Benefit-sharing. As set out in its terms of reference contained in that paragraph:

“The expert group shall provide legal and technical advice, including, where appropriate, options and/or scenarios. The expert group will address the following questions:

- (a) What is the relationship between access and use of genetic resources and associated traditional knowledge?
- (b) What practical impacts should the negotiations of the international regime take into account based on the range of community level procedures and customary systems of indigenous and local communities for regulating access to traditional knowledge associated with genetic resources at the community level?
- (c) Identify the range of community level procedures and determine to what extent customary laws of indigenous and local communities regulate access to genetic resources and

* UNEP/CBD/ABS/GTLE/3/1.

/...

associated traditional knowledge at the community level and its relevance to the international regime;

(d) To what extent measures to ensure compliance with prior informed consent and mutually agreed terms under Article 15 also support the prior informed consent of indigenous and local communities for the use of their associated traditional knowledge?

(e) Identify elements and procedural aspects for the prior informed consent of holders of associated traditional knowledge when traditional knowledge associated with genetic resources is accessed also taking into account potential transboundary contexts of such associated traditional knowledge and identifying best practice examples;

(f) Is there a basis for prior informed consent for indigenous and local communities relative to traditional knowledge associated to genetic resources in international law? If so, how can it be reflected in the international regime?

(g) Assess options, considering the practical difficulties and distinct implementation challenges, for including traditional knowledge associated with genetic resources in a potential internationally recognized certificate issued by the competent domestic authority also by considering the possibility of a declaration on such certificate as to whether there is any associated traditional knowledge and who the relevant holders of traditional knowledge are;

(h) How to define traditional knowledge associated to genetic resources in the context of access and benefit-sharing?"

3. In paragraph 2 of section C of annex II of decision IX/12, the Conference of the Parties also decided that the expert group shall be regionally balanced and composed of thirty experts nominated by Parties and fifteen observers, including seven observers from indigenous and local communities nominated by them, and remaining observers from, *inter alia*, international organizations and agreements, industry, research institutions/academia and non-governmental organizations. In paragraph 3, Parties were also encouraged to nominate experts from indigenous and local communities where possible.

4. In accordance with paragraph 12 of decision IX/12, the Bureau, on the recommendation of the Executive Secretary, has approved a list of selected experts for the meeting, prepared in accordance with the terms of reference set out in paragraph 2 above.

5. An information note containing details of registration and logistical arrangements for the meeting, including information on travel visa requirements, accommodation and other matters is available at <http://www.cbd.int/doc/?meeting=ABSGTLE-03>.

6. Registration will take place upon arrival as provided for in the information note for participants.

ITEM 1. OPENING OF THE MEETING

3. The meeting will be opened by the representative of the Executive Secretary at 9. a.m. on Tuesday, 16 June 2009. A representative of the host Government will address the meeting.

ITEM 2. ORGANIZATIONAL MATTERS

4. Participants will be invited to elect the Chair/Co-Chairs for the meeting on the basis of proposals from the floor.

5. Participants will also be invited to adopt the agenda for the meeting on the basis of the provisional agenda prepared by the Executive Secretary (UNEP/CBD/ABS/GTLE/3/1).

6. The Group may wish to carry out its work in plenary or break out into subgroups, as appropriate. A proposal for the organization of work for the meeting is contained in annex II below.
7. The language of the meeting will be English.

ITEM 3. TRADITIONAL KNOWLEDGE ASSOCIATED WITH GENETIC RESOURCES IN THE CONTEXT OF THE INTERNATIONAL REGIME ON ACCESS AND BENEFIT-SHARING

8. As noted in paragraph 2 above, the Group of Experts was established to further examine the issue of traditional knowledge associated with genetic resources in order to assist the Ad Hoc Open-ended Working Group on Access and Benefit-sharing. The Group was requested by the Conference of the Parties to provide legal and technical advice, including, where appropriate, options and/or scenarios.
9. In accordance with paragraph 15 of decision IX/12, by notification 2009-019 dated 24 February 2009, Parties, Governments, indigenous and local communities, international organizations, non-governmental organizations and relevant stakeholders were invited to provide information and views in preparation for the meeting. As of 2 June 2009, contributions were received from the European Community and its Member States, Norway, the Brazilian Indigenous Institute for Intellectual Property (INBRAPI), Indigenous and Local Tribes of Arunachal Pradesh (ILTAP), the Saami Council, the Access and Benefit-sharing Alliance (ABSA), the Biotechnology Industry Organisation (BIO), the International Chamber of Commerce (ICC), the International Institute for Environment and Development (IIED), Natural Justice, the Programa PanAmericano de Defensa u Desarrollo de la Diversidad Biologica, Cultural y Social, and the Red de Coordinacion en Biodiversidad (RCB).
10. These contributions are listed in annex I to the present document and are available on the website of the Secretariat at: <https://www.cbd.int/abs/absgtle-03/submission/>. Any additional submissions received will also be made available at the same address.
11. The Group of Experts will also have before it a study commissioned by the Executive Secretary in accordance with paragraph 13 of decision IX/12 which is of relevance to this expert group: Study on compliance issues in relation to the customary law of indigenous and local communities, national law, across jurisdictions, and international law (UNEP/CBD/ABS/GTLE/3/INF/1). It should be noted that this document was already made available at the seventh meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing as UNEP/CBD/WG-ABS/7/INF/5.
12. In addition, the Outcomes of the Vienna Workshop on Matters Related to Traditional Knowledge with Genetic Resources and the International ABS Regime, hosted by the Austrian Ministry of Agriculture, Forestry, Environment and Water Management, held in Vienna from 15 to 17 December 2008 is available as UNEP/CBD/GTLE/3/INF/2. This report was also previously made available for the seventh meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing as UNEP/CBD/WG-ABS/7/INF/7.
13. In addition, two documents submitted to previous sessions of the United Nations Permanent Forum on Indigenous Issues, on issues of relevance to this meeting, are also available as information documents:
 - (a) Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples, 17-19 January 2005, UNEP/CBD/GTLE-ABS/3/INF/3.
 - (b) Report of the International Expert Group Meeting on the International Regime on Access and Benefit-sharing and Indigenous Peoples' Human Rights of the Convention on Biological Diversity, UNEP/CBD/GTLE-ABS/3/INF/4.
14. Finally, the report of the Expert Group on Compliance in the Context of the International Regime on Access and Benefit-sharing, held in Tokyo in January 2009, which addressed one question related to

the customary law of indigenous and local communities is also made available for the information of participants (UNEP/CBD/GTLE-ABS/3/INF/5). This report was made available for the seventh meeting of the Working Group on Access and Benefit-sharing as document UNEP/CBD/WG-ABS//7/3.

ITEM 4. ADOPTION OF THE REPORT

15. The Group will be invited to consider and adopt its report, which will be presented to the eighth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing by the Chair/Co-Chairs of the meeting.

ITEM 5. CLOSURE OF THE MEETING

16. It is expected that the meeting will be closed at 6 p.m. on Friday, 19 June 2009.

Annex I

LIST OF DOCUMENTS

<i>Symbol</i>	<i>Title</i>
UNEP/CBD/ABS/GTLE/3/1	Provisional agenda
UNEP/CBD/ABS/GTLE/3/1/Add.1	Annotations to the provisional agenda
https://www.cbd.int/abs/absgtle-03/submission/	<p>Information and views provided by Parties, Governments, indigenous and local communities, international organizations and relevant stakeholders in response to the invitation of the Conference of the Parties in paragraph 15 of decision IX/12, as follows:</p> <p>Parties:</p> <ul style="list-style-type: none">- European Community and its member States- Norway <p>Indigenous and local communities:</p> <ul style="list-style-type: none">- Brazilian Indigenous Institute for Intellectual Property (INBRAPI),- Indigenous and Local Tribes of Arunachal Pradesh (ILTAP),- The Saami Council <p>International organizations, non-governmental organizations and stakeholders:</p> <ul style="list-style-type: none">- Access and Benefit-sharing Alliance (ABSA),- Biotechnology Industry Organisation (BIO),- International Chamber of Commerce (ICC),- International Institute for Environment and Development (IIED),- Natural Justice- Programa PanAmericano de Defensa u Desarrollo de la Diversidad Biologica, Cultural y Social,- Red de Coordinacion en Biodiversidad (RCB)
UNEP/CBD/ABS/GTLE/3/INF/1	Study on compliance in relation to the customary law of indigenous peoples and local communities, national law, across jurisdictions, and international law
UNEP/CBD/ABS/GTLE/3/INF/2	Outcomes of the Vienna Workshop on Matters Related to Traditional Knowledge with Genetic Resources and the International ABS Regime
UNEP/CBD/ABS/GTLE/3/INF/3	Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples, Permanent Forum on Indigenous Issues, fourth session, 16-27 May 2005.

<i>Symbol</i>	<i>Title</i>
UNEP/CBD/ABS/GTLE/3/INF/4	Report of the International Expert Group Meeting on the International Regime on Access and Benefit-sharing and Indigenous Peoples' Human Rights of the Convention on Biological Diversity, Permanent Forum on Indigenous Issues, sixth session, May 2007.
UNEP/CBD/ABS/GTLE/3/INF/5	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

PREVIOUSLY ISSUED DOCUMENTS OF RELEVANCE TO THE MEETING

UNEP/CBD/WG8J/5/6	Development of elements of <i>sui generis</i> systems for the protection of traditional knowledge, innovations and practices to identify priority elements
UNEP/CBD/WG8J/2/7	Assessment of the effectiveness of existing subnational, national and international instruments, particularly intellectual property rights instruments, that may have implications on the protection of the knowledge, innovations and practices of indigenous and local communities

Annex II

PROPOSED ORGANIZATION OF WORK

<i>Date and time</i>	<i>Agenda items</i>
Tuesday, 16 June 2009 A.M.	<ol style="list-style-type: none"> 1. Opening of the meeting; 2. Organizational matters; 3. Traditional knowledge associated with genetic resources in the context of the international regime on access and benefit-sharing: <ol style="list-style-type: none"> (a) What is the relationship between access and use of genetic resources and associated traditional knowledge? (b) What practical impacts should the negotiations of the international regime take into account based on the range of community level procedures and customary systems of indigenous and local communities for regulating access to traditional knowledge associated with genetic resources at the community level?
P.M.	<ol style="list-style-type: none"> (c) Identify the range of community level procedures and determine to what extent customary laws of indigenous and local communities regulate access to genetic resources and associated traditional knowledge at the community level and its relevance to the international regime; (d) To what extent measures to ensure compliance with prior informed consent and mutually agreed terms under Article 15 also support the prior informed consent of indigenous and local communities for the use of their associated traditional knowledge?
Wednesday, 17 June 2009 A.M.	<ol style="list-style-type: none"> (e) Identify elements and procedural aspects for the prior informed consent of holders of associated traditional knowledge when traditional knowledge associated with genetic resources is accessed also taking into account potential transboundary contexts of such associated traditional knowledge and identifying best practice examples; (f) Is there a basis for prior informed consent for indigenous and local communities relative to traditional knowledge associated to genetic resources in international law? If so, how can it be reflected in the international regime?
P.M.	<ol style="list-style-type: none"> (g) Assess options, considering the practical difficulties and distinct implementation challenges, for including traditional knowledge associated with genetic resources in a potential internationally recognized certificate issued by the competent domestic authority also by considering the possibility of a declaration on such certificate as to whether there is any associated traditional knowledge and who the relevant holders of traditional knowledge are; (h) How to define traditional knowledge associated to genetic resources in the context of access and benefit-sharing?

<i>Date and time</i>	<i>Agenda items</i>
Thursday, 18 June 2009 A.M.	Finalization of discussions and preparation of the report.
P.M.	Finalization of discussions and preparation of the report (continued).
Friday, 19 June 2009 A.M/P.M.	4. Adoption of the report. 5. Closure of the meeting.
