



CONVENTION ON BIOLOGICAL DIVERSITY

Distr.
GENERAL

UNEP/CBD/WG-ABS/2/1/Add.1/Rev.1
20 October 2003

ORIGINAL: ENGLISH

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

Second meeting

Montreal, 1-5 December 2003

Item 2 of the provisional agenda*

ORGANIZATIONAL MATTERS

Revised annotated provisional agenda

INTRODUCTION

1. In paragraph 3 of its decision VI/24 A, the Conference of the Parties adopted the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Arising out of their Utilization. In paragraph 6 of the same decision, it recognized “that the Guidelines are a useful first step of an evolutionary process in the implementation of relevant provisions of the Convention related to access to genetic resources and benefit-sharing”, and, in paragraph 7, it decided “to keep under review the implementation of the guidelines and consider the need for their further refinement on the basis of, inter alia, relevant work under the Convention, including work on Article 8(j) and related provisions”.

2. In paragraph 8 of the same decision, the Conference of the Parties decided:

“[T]o reconvene the Ad Hoc Open-ended Working Group on Access and Benefit-sharing to advise the Conference of the Parties on:

(a) Use of terms, definitions and/or glossary, as appropriate;

(b) Other approaches as set out in decision VI/24 B;

(c) Measures, including consideration of their feasibility, practicality and costs, to support compliance with prior informed consent of the Contracting Party providing such resources and mutually agreed terms on which access was granted in Contracting Parties with users of genetic resources under their jurisdiction;

* UNEP/CBD/WG-ABS/2/1.

/...

(d) Its consideration of any available reports or progress reports arising from the present decision;

(e) Needs for capacity-building identified by countries to implement the Guidelines.

The Working Group will submit its report to the Conference of the Parties at its seventh meeting.”

3. Following the sixth meeting of the Conference of the Parties, the World Summit on Sustainable Development was held in Johannesburg, in August/September 2002. The Plan of Implementation adopted by the Summit, in paragraph 44 (o), called for action to “negotiate within the framework of the Convention on Biological Diversity, bearing in mind the Bonn Guidelines, an international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources”. In light of this outcome, the issue of an international regime on access and benefit-sharing was addressed as a distinct agenda item by the Inter-Sessional Meeting on the Multi-Year Programme of Work of the Conference of the Parties up to 2010, held in March 2003. The Inter-Sessional Meeting recommended that “the Ad Hoc Open-ended Working Group on Access and Benefit-sharing should, in its consideration of other approaches, in accordance with its mandate as specified in decision VI/24 A, consider the process, nature, scope, elements and modalities of an international regime and provide advice to the Conference of the Parties at its seventh meeting on how it may wish to address this issue”. ^{1/}

4. The results of the deliberations of the Working Group are to be submitted for consideration by the Conference of the Parties at its seventh meeting, to be held in Kuala Lumpur in February 2004.

5. The Ad Hoc Open-ended Working Group on Access and Benefit-sharing will meet in Montreal from 1 to 5 December 2003. Registration of participants will take place at the venue of the meeting from 3 p.m. to 6 p.m. on Sunday, 30 November 2003 and will continue from 8 a.m. on Monday, 1 December 2003.

6. A list of documents for the meeting is contained in annex I to the present note. In addition to normal distribution, documents are available on the Secretariat’s website at the following <<http://www.biodiv.org>>.

7. The Secretariat is also distributing an information note containing details of registration and logistical arrangements for the meeting, including information on travel, visa requirements, accommodation and other matters.

ITEM 1. OPENING OF THE MEETING

8. The meeting will be opened at 10 a.m. on Monday, 1 December 2003 by the President of the Bureau of the Conference of the Parties. The Executive Secretary will make introductory remarks.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Officers

9. In keeping with established practice, the Bureau of the Conference of the Parties will serve as the Bureau of the Working Group.

^{1/} UNEP/CBD/COP/7/5, recommendation 5, para. 4.

2.2. *Adoption of the agenda*

10. The Working Group may wish to adopt its agenda on the basis of the provisional agenda (UNEP/CBD/WG-ABS/2/1), which has been prepared by the Executive Secretary on the basis of decision VI/24 A, the above-mentioned recommendation of the Inter-Sessional Meeting, and in consultation with the Bureau.

2.3. *Organization of work*

11. Interpretation will be provided in the six official languages of the United Nations.

12. In light of the number of issues to be addressed, and in accordance with past practice, the Working Group may wish to establish two sub-working groups open to all Parties and observers with well defined terms of reference to ensure in-depth consideration of items 3 to 7 on the agenda.

13. Should the Working Group decide to establish two sub-working groups, it is suggested that the chairs of those groups be elected at the first plenary session of the meeting.

14. A suggested timetable and division of responsibilities between the plenary and the two sub-working groups is proposed in annex II below. According to that proposal, Sub-Working Group I would consider items 3, 4 and 5, while Sub-Working Group II would consider items 6 and 7.

ITEM 3. CONSIDERATION OF ANY AVAILABLE REPORTS OR PROGRESS REPORTS ARISING FROM DECISION VI/24 A INCLUDING ON EXPERIENCE GAINED FROM THE USE OF THE BONN GUIDELINES

15. With a view to providing information on any recent developments of relevance and to facilitate discussions, the Working Group is invited to consider, in plenary, any available reports or progress reports, in accordance with decision VI/24 A, paragraph 8 (d). This includes any information that Parties may wish to submit on experience gained in the use of the Bonn Guidelines, in accordance with the recommendation of the Open-ended Inter-Sessional Meeting on the Multi-Year Programme of Work for the Conference of the Parties up to 2010. It is also proposed that this item be taken up in Sub-Working Group I to give participants the opportunity to discuss experience gained in the use of the Bonn Guidelines. A compilation of submissions on access and benefit-sharing as related to genetic resources received by the Secretariat pursuant to decisions VI/24 A-D of the Conference of the Parties, including information regarding the implementation of the Bonn Guidelines, is available as an information document (UNEP/CBD/WG-ABS/2/INF/1).

16. Parties will be also be invited to consider additional reports or progress reports by relevant organizations on recent developments and analytical work carried out on issues of relevance to the mandate of the Working Group, including the technical study by the World Intellectual Property Organization (WIPO) on disclosure requirements related to genetic resources and traditional knowledge (UNEP/CBD/WG-ABS/2/INF/4). This study was prepared by WIPO further to the invitation of the Conference of the Parties, in decision VI/24 C, paragraph 4.

ITEM 4. USE OF TERMS, DEFINITIONS AND/OR GLOSSARY, AS APPROPRIATE

17. At its first meeting, held in Bonn from 22 to 26 October 2001, the Ad Hoc Open-ended Working Group on Access and Benefit-sharing recommended, *inter alia*, that the Executive Secretary, in consultation with the Bureau of the Conference of the Parties, convene a group of ten experts nominated by Parties, having due regard to the principle of equitable geographical representation, to develop draft elements of a decision on the use of terms in paragraph 6 of the draft Bonn Guidelines developed by the

Working Group in Bonn. Ten experts were selected from China, Cuba, Ethiopia, Germany, India, Nigeria, Peru, Poland, Switzerland and Ukraine. The submissions received by experts were compiled by the Secretariat and made available to the sixth meeting of the Conference of the Parties (UNEP/CBD/COP/6/INF/40, annex I).

18. In the final version of the Bonn Guidelines, as adopted by the Conference of the Parties at its sixth meeting, it is stated in paragraph 8, on “Use of terms”, that:

“The terms as defined in Article 2 of the Convention shall apply to these Guidelines. These include: biological diversity, biological resources, biotechnology, country of origin of genetic resources, country providing genetic resources, *ex situ* conservation, *in situ* conservation, genetic material, genetic resources, and *in situ* conditions.”

19. In order to determine the most appropriate way to further address this issue, the Conference of the Parties decided that the issue of “use of terms” should be considered by the Working Group at its second meeting. Hence, in paragraph 8 (a) of decision VI/24 A, the Working Group was requested to advise the Conference of the Parties on the “[u]se of terms, definitions and/or glossary, as appropriate”.

20. Section II of the note by the Executive Secretary prepared for the second meeting of the Working Group (UNEP/CBD/WG-ABS/2/2) addresses this matter. In addition, the text of submissions by Parties on use of terms following the sixth meeting of the Conference of the Parties is included in the compilation of submissions on access and benefit-sharing as related to genetic resources received by the Secretariat pursuant to decision VI/24A-D of the Conference of the Parties (UNEP/CBD/WG-ABS/2/INF/1).

21. On this basis, Parties may wish to make appropriate recommendations to the Conference of the Parties on whether a glossary and/or definitions would be appropriate, as well as on the process to draft such glossary or definitions.

ITEM 5. OTHER APPROACHES, AS SET OUT IN DECISION VI/24 B, INCLUDING CONSIDERATION OF THE PROCESS, NATURE, SCOPE, ELEMENTS AND MODALITIES OF AN INTERNATIONAL REGIME

22. Under this agenda item, Parties will be invited to consider other approaches, as set out in decision VI/24 B, including consideration of the process, nature, scope, elements and modalities of an international regime.

23. In paragraph 10 of its decision VI/24 B, the Conference of the Parties recognized that a package of measures may be necessary to address the different needs of Parties and stakeholders in the implementation of access and benefit-sharing arrangements. It further recognized, in paragraph 11, that other approaches could be considered to complement the Bonn Guidelines, such as model contractual agreements, existing regional agreements and model laws on access to genetic resources and benefit-sharing. Section III of the note by the Executive Secretary (UNEP/CBD/WG-ABS/2/2) provides an overview of existing approaches and also points to additional approaches that could be considered to complement the Bonn Guidelines and usefully assist Parties, Governments and relevant stakeholders in the implementation of access and benefit-sharing arrangements. Taking into account existing approaches, Parties are invited to give further consideration to additional approaches, complementary to the Bonn Guidelines, which may assist Parties and stakeholders with the implementation of the access and benefit-sharing provisions of the Convention.

24. In addition, in accordance with the recommendations of the Inter-Sessional Meeting on the Multi-Year Programme of Work of the Conference of the Parties up to 2010, the Working Group is invited to consider under this item the process, nature, scope, elements and modalities of an international

regime on access to genetic resources and benefit-sharing and to provide advice to the Conference of the Parties at its seventh meeting on how it may wish to address this issue.

25. The issue of the process, nature, scope, elements and modalities of an international regime on access to genetic resources and benefit-sharing is addressed in a note by the Executive Secretary (UNEP/CBD/WG-ABS/2/4). A compilation of views received by the Secretariat from a number of Governments, and organizations on the process, nature, scope, elements and modalities of an international regime is available as an information document (UNEP/CBD/WG-ABS/2/INF/3).

ITEM 6. MEASURES, INCLUDING CONSIDERATION OF THEIR FEASIBILITY, PRACTICALITY AND COSTS, TO SUPPORT COMPLIANCE WITH PRIOR INFORMED CONSENT OF THE CONTRACTING PARTY PROVIDING GENETIC RESOURCES AND MUTUALLY AGREED TERMS ON WHICH ACCESS WAS GRANTED IN CONTRACTING PARTIES WITH USERS OF SUCH RESOURCES UNDER THEIR JURISDICTION

26. Under the agenda item 5, on other approaches, Parties are to consider measures developed by a variety of actors involved in access and benefit-sharing to assist Parties and stakeholders in the implementation of access and benefit-sharing provisions of the Convention. Under this agenda item, the Working Group is invited to consider possible measures by Contracting Parties with users under their jurisdiction to ensure compliance with prior informed consent of the Contracting Party providing such resources and mutually agreed terms on which access was granted. This issue is addressed in section IV of the note by the Executive Secretary (UNEP/CBD/WG-ABS/2/2).

27. Under this agenda item, the Working Group may also wish to consider the issue of the disclosure of origin of genetic resources and relevant traditional knowledge in applications for intellectual property rights, where the subject matter of the application concerns or makes use of genetic resources or relevant traditional knowledge in its development. As requested by the Conference of the Parties in decision VI/24 C, further work was carried out on a number of topics related to the issue of disclosure of origin in intellectual property rights applications. The Executive Secretary prepared a note on this issue for the consideration of the Working Group (UNEP/CBD/WG-ABS/2/3). In addition, the Executive Secretary has made available, as an information document (UNEP/CBD/WG-ABS/2/INF/2), a technical study prepared by a consultant on implementation issues regarding disclosure of origin and prior informed consent for applications of intellectual property rights based on genetic resources. In addition, under this agenda item, the Working Group is invited to consider the WIPO technical study on disclosure requirements related to genetic resources and traditional knowledge (UNEP/CBD/WG-ABS/2/INF/4) referred to in paragraph 16 above.

28. The Working Group may wish to make recommendations to the Conference of the Parties on the need for further work to advance this issue.

ITEM 7. NEEDS FOR CAPACITY-BUILDING IDENTIFIED BY COUNTRIES TO IMPLEMENT THE BONN GUIDELINES

29. As requested by the Conference of the Parties, in decision VI/24 B, an Open-ended Expert Workshop on Capacity-building for Access and Benefit-sharing was held from 2 to 4 December 2002 in order to further develop the draft elements for an Action Plan on Capacity-building for Access and Benefit-sharing. The draft Action Plan on Capacity-building for Access to Genetic Resources and Benefit-sharing elaborated by the expert workshop is included in annex I of the report of the Workshop (UNEP/CBD/ABS/EW-CB/1/3) for adoption by the Conference of the Parties at its seventh meeting. The Working Group may wish to take note of the draft Action Plan and recommend it for adoption by the Conference of the Parties at its seventh meeting.

ITEM 8. OTHER MATTERS

30. Under this item, the members of the Working Group may wish to raise and discuss other matters related to the subject-matter of the meeting.

ITEM 9. ADOPTION OF THE REPORT

31. 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 and the draft recommendations agreed by the two sub-working groups, which will be introduced by their respective chairs.

32. The final report of the meeting will be presented by the Chair of the Working Group to the Conference of the Parties at its seventh meeting, in February 2004.

ITEM 10. CLOSURE OF THE MEETING

33. The meeting is expected to be closed at 6 p.m. on Friday, 5 December 2003.

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

<i>Symbol</i>	<i>Title</i>
UNEP/CBD/WG-ABS/2/1	Provisional agenda
UNEP/CBD/WG-ABS/2/1/Add.1	Annotated provisional agenda
UNEP/CBD/WG-ABS/2/2	Further consideration of outstanding issues related to access and benefit-sharing: use of terms, other approaches and compliance measures in Contracting Parties with users under their jurisdiction: note by the Executive Secretary
UNEP/CBD/WG-ABS/2/3	The role of intellectual property rights in access and benefit-sharing arrangements, including national and regional experiences: note by the Executive Secretary
UNEP/CBD/WG-ABS/2/4	An international regime on access to genetic resources and benefit-sharing: compilation of views on the process, nature, scope, elements and modalities: note by the Executive Secretary
UNEP/CBD/ABS/EW-CB/1/3	Report of the Open-ended Expert Workshop on Capacity-building for Access to Genetic Resources and Benefit-sharing
UNEP/CBD/COP/6/INF/40	Compilation of submissions by experts on the use of terms
UNEP/CBD/WG-ABS/2/INF/1	Compilation of submissions on access and benefit-sharing as related to genetic resources received by the Secretariat pursuant to decision VI/24A-D of the Conference of the Parties
UNEP/CBD/WG-ABS/2/INF/2	Disclosure of origin and prior informed consent for applications of intellectual property rights based on genetic resources: a technical study of implementation issues
UNEP/CBD/WG-ABS/2/INF/3	An international regime on access to genetic resources and benefit-sharing: compilation of views on the process, nature, scope, elements and modalities
UNEP/CBD/WG-ABS/2/INF/4	WIPO technical study on disclosure requirements related to genetic resources and traditional knowledge

Annex II

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

	<i>Plenary</i>	<i>Sub-Working Group I</i>	<i>Sub-Working Group II</i>
<p><i>Monday</i> <i>1 December 2003</i> 10 a.m. to 1 p.m.</p>	<p><i>Items:</i></p> <ol style="list-style-type: none"> 1. Opening of the meeting. 2. Organizational matters: <ol style="list-style-type: none"> 2.1 Officers; 2.2 Adoption of the agenda; 2..3 Organization of work. 3. Consideration of any available reports or progress reports arising from decision VI/24 A, including on experience gained from the use of the Bonn Guidelines 		
<p>3-6 p.m.</p>		<p><i>Item 3.</i> Consideration of any available reports or progress reports arising from decision VI/24 A, including on experience gained from the use of the Bonn Guidelines</p> <p><i>Item 4.</i> Use of terms, definitions and/or glossary, as appropriate</p>	<p><i>Item 6.</i> Measures, including consideration of their feasibility, practicality and costs, to support compliance with prior informed consent of the Contracting Party providing such resources and mutually agreed terms on which access was granted in Contracting Parties with users of genetic resources under their jurisdiction</p>
<p><i>Tuesday</i> <i>2 December 2003</i> 10 a.m. to 1 p.m.</p>		<p>Item 4. (<i>continued</i>)</p>	<p>Item 6 (<i>continued</i>)</p>
<p>3-6 p.m.</p>		<p><i>Item 5.</i> Other approaches, as set out in decision VI/24 B, including consideration of the process, nature, scope, elements and modalities of an international regime</p>	<p><i>Item 7.</i> Needs for capacity-building identified by countries to implement the Bonn Guidelines</p>

	<i>Plenary</i>	<i>Sub-Working Group I</i>	<i>Sub-Working Group II</i>
<i>Wednesday 3 December 2003 10 to 1 p.m.</i>		Item 5 (<i>continued</i>)	Items 6 and 7 (<i>continued</i>)
3-6 p.m.		Item 5 (<i>continued</i>)	Items 6 and 7 (<i>continued</i>)
<i>Thursday, 4 December 2003 10 a.m. to 1 p.m.</i>		Adoption of the report of the Sub-Working Group and draft recommendations under agenda items 4 and 5	Adoption of the report of the Sub-Working Group and draft recommendations under agenda items 6 and 7
3-6 p.m.		Adoption of the report of the Sub-Working Group and draft recommendations under agenda items 4 and 5 (<i>continued</i>)	Adoption of the report of the Sub-Working Group and draft recommendations under agenda items 6 and 7 (<i>continued</i>)
<i>Friday 5 December 2003 10 a.m. to 1 p.m.</i>	Consideration of draft recommendations and the reports of the Sub-Working Groups <i>Item 8.</i> Other matters <i>Item 9.</i> Adoption of the report <i>Item 10.</i> Closure of the meeting		
3-6 p.m.	(<i>continued as needed</i>)		
