



CONVENTION ON BIOLOGICAL DIVERSITY

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

Third meeting

Bangkok, 14-18 February 2005

Item 2 of the provisional agenda*

ORGANIZATIONAL MATTERS

Revised annotated provisional agenda

INTRODUCTION

1. In paragraph 1 of decision VII/19 D, the Conference of the Parties decided “to mandate the Ad Hoc Open-ended Working Group on Access and Benefit-sharing, with the collaboration of the Ad Hoc Open ended Inter-sessional Working Group on Article 8(j) and related provisions, ensuring the participation of indigenous and local communities, non-governmental organizations, industry and scientific and academic institutions, as well as intergovernmental organizations, to elaborate and negotiate an international regime on access to genetic resources and benefit-sharing with the aim of adopting an instrument/instruments to effectively implement the provisions in Article 15 and Article 8(j) of the Convention and the three objectives of the Convention” and, in paragraph 2, recommended that the Working Group on Access and Benefit-sharing “should operate in accordance with the terms of reference contained in the annex to this decision”.

2. In paragraphs 3 and 4 of the same decision, the Executive Secretary was requested “to make the necessary arrangements for the Ad Hoc Open-ended Working Group on Access and Benefit-sharing to be convened twice before the eighth meeting of the Conference of the Parties” and “to report on progress to the Conference of the Parties at its eighth meeting”.

3. The Working Group on Access and Benefit-sharing was also requested:

(a) “[T]o further examine the issue of use of terms not defined in the Convention including the possible establishment of an expert group to determine the need for definitions or a glossary, and to report back to the Conference of the Parties” (decision VII/19 B, paragraph 4);

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(b) “[T]o further consider the issue of additional approaches, in a cost-effective way at an appropriate time” (decision VII/19 C, paragraph 3); and

(c) “[T]o recommend to the Conference of the Parties at its eighth meeting further measures to support and ensure compliance with prior informed consent of the Contracting Parties providing such resources, including countries of origin, in accordance with Article 2 and Article 15, paragraph 3, of the Convention, and of the indigenous and local communities providing associated traditional knowledge, and with mutually agreed terms on which access was granted.” (decision VII/19 E, paragraph 11).

4. The results of the deliberations of the Working Group at its third and fourth meetings, in February 2005 and March 2006 will be submitted for consideration by the Conference of the Parties at its eighth meeting, to be held in Brazil in May 2006.

5. The third meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing will be held in Bangkok from 14 to 18 February 2005. Registration of participants will take place at the venue of the meeting from 3 p.m. to 6 p.m. on Sunday, 13 February and will continue from 8 a.m. on Monday, 14 February 2005.

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 by the President of the Conference of the Parties or his representative. A representative of the host country will address the meeting. 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.

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/3/1), which has been prepared by the Executive Secretary on the basis of decision VII/19 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.

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 allocation 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 item 4, while Sub-Working Group II would consider items 5 to 8, and items 1-3 and 9-11 would be taken up directly in plenary.

ITEM 3. REPORTS ON THE IMPLEMENTATION OF THE BONN GUIDELINES, DEVELOPMENTS IN RELEVANT INTERNATIONAL PROCESSES AND CAPACITY-BUILDING

15. Under this item, the Working Group will be invited to consider, in plenary, any available reports from Parties, Governments and relevant organizations on the implementation of the Bonn Guidelines, as well as any developments related to access to genetic resources and benefit-sharing in relevant international processes and to capacity-building.

16. A compilation of submissions provided by Parties, Governments, indigenous and local communities, relevant international organisations and other stakeholders, including on relevant experiences and lessons learned in the implementation of the Bonn Guidelines will be made available as an information document (UNEP/CBD/WG-ABS/3/INF/1).

ITEM 4. INTERNATIONAL REGIME ON ACCESS AND BENEFIT-SHARING: NATURE, SCOPE AND ELEMENTS

17. Under item 4, the Working Group is invited to elaborate and negotiate an international regime on access and benefit-sharing, in accordance with the terms of reference for the Working Group included in annex to decision VII/19 D. As set out in the terms of reference, the Working Group is invited to draw, *inter alia*, on an analysis of existing legal and other instruments at national, regional and international levels relating to access and benefit-sharing. It is also invited to examine whether, and to what extent, possible elements contained in paragraph (d) of the terms of reference, are part of these instruments and determine how to address gaps.

18. In order to assist the Working Group, the Executive Secretary prepared a note entitled “Analysis of existing national, regional and international legal instruments relating to access and benefit-sharing and experience gained in their implementation, including identification of gaps” (UNEP/CBD/WG-ABS/3/2). In addition, the Secretariat is also circulating a compilation of the views, information and analysis on the elements of the international regime provided by Parties, Governments, international organizations, indigenous and local communities and all relevant stakeholders (UNEP/CBD/WG-ABS/3/3).

ITEM 5. USE OF TERMS, DEFINITIONS AND/OR GLOSSARY, AS APPROPRIATE

19. Under this item, the Working Group is invited to further examine the issue of the use of terms related to access and benefit-sharing not defined in the Convention, including the possible establishment of an expert group to determine the need for definitions or a glossary, in accordance with decision VII/19 B, paragraph 4.

20. As requested in paragraph 3 of the same decision, the Secretariat has compiled information provided by Parties, Governments, relevant organizations, indigenous and local communities, and all relevant stakeholders, on existing national definitions or other relevant definitions of the following terms: access to genetic resources, benefit-sharing, commercialization, derivatives, provider, user, stakeholder,

ex situ collection and voluntary nature. Views on whether additional terms need to be considered are also included in the note by the Executive Secretary prepared under this item (UNEP/CBD/WG-ABS/3/4).

ITEM 6. OTHER APPROACHES, AS SET OUT IN DECISION VI/24 B, INCLUDING CONSIDERATION OF AN INTERNATIONAL CERTIFICATE OF ORIGIN/SOURCE/LEGAL PROVENANCE

21. In decision VII/19 C, the Conference of the Parties acknowledged “that existing other approaches could be considered to complement the Bonn Guidelines and are useful tools in assisting implementation of access and benefit-sharing provisions” and stressed “the need to further examine other approaches as set out in decision VI/24 B, and additional approaches such as interregional and bilateral arrangements as well as an international certificate of legal provenance/origin/source, in particular the operational functionality and cost effectiveness of such an international certificate”.

22. As requested by the Conference of the Parties in decision VII/19 C, paragraphs 2 and 3, the Executive Secretary is circulating a compilation of information on existing and additional approaches, including a certificate of origin/source/legal provenance (UNEP/CBD/WG-ABS/3/5).

ITEM 7. 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

23. Under this item, in accordance with decision VII/19 E, paragraph 11, the Working Group is invited to recommend to the Conference of the Parties further measures to support and ensure compliance with prior informed consent of the Contracting Parties providing such resources, including countries of origin, in accordance with Article 2 and Article 15, paragraph 3, of the Convention, and of the indigenous and local communities providing associated traditional knowledge, and with mutually agreed terms on which access was granted.

24. In addition, in paragraphs 6 and 7 of decision VII/19 E, the Conference of the Parties requested that the Working Group “address issues related to an international certificate of origin/source/legal provenance, including its feasibility, practicality and costs”, and “identify issues related to the disclosure of origin of genetic resources and associated traditional knowledge in applications for intellectual property rights, including those raised by an international certificate of origin/source/legal provenance” and “transmit the results of this examination to the World Intellectual Property Organisation and other relevant forums”, taking into account the work carried out by the World Intellectual Property Organisation, and other relevant organisations, such as the United Nations Conference on Trade and Development, as set out in paragraphs 8 and 9 of the same decision.

25. In order to assist the Working Group, the note entitled “Analysis of measures to ensure compliance with prior informed consent of the Contracting Party providing genetic resources and mutually agreed terms on which access was granted, and of other approaches, including an international certificate of origin/source/legal provenance” (UNEP/CBD/WG-ABS/3/5) provides in its section II an overview of measures taken by Governments to ensure compliance with prior informed consent and mutually agreed terms, on the basis of information provided by Parties and relevant organizations. The document also covers under section III on “other approaches” issues related to an international certificate of origin/source/legal provenance. Developments in international forums, such as the WIPO and the WTO, on issues related to the disclosure of origin of genetic resources and associated traditional knowledge in applications for intellectual property rights are addressed in the note prepared by the

Executive Secretary entitled “Analysis of existing national, regional and international legal instruments relating to access and benefit-sharing and experience gained in their implementation, including identification of gaps.” (UNEP/CBD/WG-ABS/3/2).

ITEM 8. STRATEGIC PLAN: FUTURE EVALUATION OF PROGRESS – 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

26. In decision VII/30, on the Strategic Plan, the Conference of the Parties decided to develop a framework to enhance the evaluation of achievements and progress in the implementation of the Strategic Plan and, in particular, its mission, to achieve a significant reduction in the current rate of biodiversity loss at the global, regional and national levels. The framework covers a number of focal areas, including: “Ensuring the fair and equitable sharing of benefits arising out of the use of genetic resources”. When addressing the issue of indicators for assessing progress towards the 2010 target at the global level, the Conference of the Parties, in paragraph 8, requested “the working groups on access and benefit-sharing, and on Article 8(j) and related provisions, respectively, 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 for the protection of innovations, knowledge and practices of indigenous and local communities, and to report the results to the Conference of the Parties at its eighth meeting”.

27. In order to assist the Working Group in this task, the Executive Secretary has prepared a note containing a number of recommendations (UNEP/CBD/WG-ABS/3/6).

ITEM 9. OTHER MATTERS

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

ITEM 10. ADOPTION OF THE REPORT

29. 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.

ITEM 11. CLOSURE OF THE MEETING

30. The meeting is expected to be closed at 6 p.m. on Friday, 18 February 2005.

Annex I

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

<i>Symbol</i>	<i>Title</i>
UNEP/CBD/WG-ABS/3/1	Provisional agenda
UNEP/CBD/WG-ABS/3/1/Add.1	Annotated provisional agenda
UNEP/CBD/WG-ABS/3/2	Analysis of existing national, regional and international legal instruments relating to access and benefit-sharing and experiences gained in their implementation, including identification of gaps
UNEP/CBD/WG-ABS/3/3	Compilation of views, information and analysis on the elements of the international regime on access and benefit-sharing
UNEP/CBD/WG-ABS/3/4	Use of terms related to access and benefit-sharing: compilation of existing definitions
UNEP/CBD/WG-ABS/3/5	Analysis of measures taken by Governments to ensure compliance with prior informed consent of the Contracting Party providing genetic resources and mutually agreed terms on which access was granted, and of other approaches, including an international certificate of origin/source/legal provenance
UNEP/CBD/WG-ABS/3/6	Strategic Plan: future evaluation of progress – 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
UNEP/CBD/WG-ABS/3/INF/1	Compilation of submissions provided by Parties, Governments, indigenous and local communities and relevant stakeholders in preparation for the third meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing, in accordance with decision VII/19

Previously issued documents of relevance to the meeting

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
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*Annex II***PROPOSED ORGANIZATION OF WORK FOR THE THIRD MEETING OF 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>
<i>Monday, 14 February 2004 9 a.m. to 12 noon.</i>	<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. Reports from Parties, Governments and relevant international organizations on the implementation of the Bonn Guidelines, capacity building and developments in relevant international processes. 		
2-5 p.m.		Item 4. International regime on access and benefit-sharing: nature, scope and elements	Item 5. Use of terms
<i>Tuesday, 15 February 2004 9 a.m. to 12 noon</i>		Item 4. (<i>continued</i>)	Item 6. Other approaches, as set out in decision VI/24 B, including consideration of an international certificate of origin/source/legal provenance

	<i>Plenary</i>	<i>Sub-Working Group I</i>	<i>Sub-Working Group II</i>
2-5 p.m.		Item 4. (<i>continued</i>)	Item 7. 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
<i>Wednesday, 16 February 2004</i> 9 a.m. to 12 noon		Item 4 (<i>continued</i>)	Item 8. Strategic Plan: options for indicators for access to genetic resources and benefit-sharing
2-5 p.m.		Item 4 (<i>continued</i>)	Items 5-8 (<i>continued</i>)
<i>Thursday, 17 February 2004</i> 9 a.m. to 12 noon.		Adoption of the report of the Sub-Working Group and draft recommendations under agenda item 4	Adoption of the report of the Sub-Working Group and draft recommendations under agenda items 5-8
2-5 p.m.		Adoption of the report of the Sub-Working Group and draft recommendations under agenda item 4 (<i>continued</i>)	Adoption of the report of the Sub-Working Group and draft recommendations under agenda items 5-8 (<i>continued</i>)
<i>Friday, 18 February 2004</i> 9 a.m. to 12 noon.	Consideration of draft recommendations and the reports of the Sub-Working Groups 9. Other matters 10. Adoption of the report 11. Closure of the meeting		
2-5 p.m.	(<i>continued as needed</i>)		