



Convention on Biological Diversity

Distr.
GENERAL

UNEP/CBD/WG-ABS/9/4
1 October 2010

ORIGINAL: ENGLISH

AD HOC OPEN-ENDED WORKING GROUP ON
ACCESS AND BENEFIT-SHARING
Ninth meeting (second resumed session)
Nagoya, Japan, 16 October 2010
Agenda item 3

DRAFT DECISION ON THE ADOPTION OF THE PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION TO THE CONVENTION ON BIOLOGICAL DIVERSITY AND RELATED MATTERS

Draft submitted by the Co-Chairs

1. The attached revised draft decision on the adoption of the Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity and related matters for the consideration of the Conference of the Parties is being submitted on behalf of the Co-Chairs of the Working Group. This draft updates the draft originally submitted to the ninth meeting of the Working Group, held in Cali, Colombia, from 22 to 28 March 2010, (UNEP/CBD/WG-ABS/9/3, annex II) to take into account developments since that meeting.
2. It is being submitted on the clear understanding that this document has not been negotiated. It is proposed that the Working Group merely endorse the draft and forward it to the tenth meeting of the Conference of the Parties as a basis for discussion.

/...

In order to minimize the environmental impacts of the Secretariat's processes, and to contribute to the Secretary-General's initiative for a C-Neutral UN, this document is printed in limited numbers. Delegates are kindly requested to bring their copies to meetings and not to request additional copies.

ADOPTION OF THE PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION TO THE CONVENTION ON BIOLOGICAL DIVERSITY

Draft decision of the Conference of the Parties

Decision X/.....

The Conference of the Parties,

Recalling that the fair and equitable sharing of the benefits arising from the utilization of genetic resources is one of the three objectives of the Convention on Biological Diversity,

Recalling further Article 15 of the Convention on access to genetic resources and sharing of the benefits arising from their utilization,

Recalling as well the World Summit on Sustainable Development held in Johannesburg in September 2002, which 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,

Recalling decision VII/19 D, in which the Ad Hoc Open-ended Working Group on Access and Benefit-sharing was mandated with the collaboration of the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions, 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 of Article 15 and Article 8(j) of the Convention and the three objectives of the Convention,

Recalling also decision IX/12, which further instructed the Working Group to finalize the international regime and to submit for consideration and adoption by the Conference of the Parties at its tenth meeting an instrument or instruments to effectively implement the provisions in Article 15 and Article 8(j) of the Convention and its three objectives,

Noting with appreciation the work carried out by the Ad Hoc Open-ended Working Group on Access and Benefit-sharing,

Recognizing that the objectives of the International Treaty on Plant Genetic Resources for Food and Agriculture are the conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on biological diversity, for sustainable agriculture and food security,

Recognizing further the progress made by many intergovernmental forums in addressing access and benefit sharing related issues,

Recognizing that the International Regime is constituted of the Convention on Biological Diversity, the Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of the Benefits Arising from their Utilization, as well as complementary instruments, including the International Treaty on Plant Genetic Resources for Food and Agriculture and the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising Out of Their Utilization,

Considering the need for interim arrangements pending the entry into force of the Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of the Benefits Arising from their Utilization to prepare for its effective implementation once it enters into force,

I. ADOPTION OF THE PROTOCOL

1. *Decides* to adopt the Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (the Protocol) as set out in the annex I to the present decision;

2. *Requests* the Secretary-General of the United Nations to be the Depositary of the Protocol and to open it for signature at the United Nations Headquarters in New York from 2 February 2011 to 1 February 2012;

3. *Calls upon* the Parties to the Convention on Biological Diversity to sign the Protocol at the earliest opportunity and to deposit instruments of ratification, acceptance or approval or instruments of accession, as appropriate, with a view to ensuring the entry into force of the Protocol as soon as possible;

4. *Invites* States that are not Parties to the Convention to ratify, accept, approve or accede to it, as appropriate, thereby enabling them also to become Parties to the Protocol;

II. INTERGOVERNMENTAL COMMITTEE FOR THE PROTOCOL

5. *Decides* to establish an Open-ended Ad Hoc Intergovernmental Committee for the Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (the Intergovernmental Committee);

6. *Decides* that the Intergovernmental Committee shall undertake, with the support of the Executive Secretary, the preparations necessary for the first meeting of the Parties to the Protocol, at which time it will cease to exist, taking into account the budgetary provisions adopted by the Conference of the Parties;

7. *Notes* that the rules of procedure for the Conference of the Parties to the Convention shall apply, *mutatis mutandis*, to meetings of the Intergovernmental Committee;

8. *Decides* that the Intergovernmental Committee shall hold its first meeting from 6 to 10 June 2011 and the second meeting from 23 to 27 April 2012;

9. *Decides* that the Co-Chairs of the Intergovernmental Committee shall be Mr/Ms..... of and Mr/Ms..... of and *invites* the Intergovernmental Committee to elect its Bureau at its first meeting from among the representatives of the Parties to the Convention;

10. *Endorses* the work plan for the Intergovernmental Committee as contained in annex II to the present decision;

11. *Requests* the Executive Secretary to provide technical assistance to Parties, subject to the availability of resources, with a view to supporting the early ratification and implementation of the Protocol;

12. *Requests* the Global Environment Facility to provide financial support to Parties to assist with the early ratification of the Protocol and its implementation;*

13. *Requests* the Executive Secretary, in collaboration with relevant organisations, as appropriate, to carry out awareness raising activities amongst relevant stakeholders groups, including the business community, the scientific community and others, to support the implementation of the Protocol;

14. *Invites* Parties and relevant organisations to provide financial and technical assistance, as appropriate, to support the implementation of the Protocol;

15. *Requests* Parties that are developing countries, in particular the least developed countries and small island developing States amongst them, and Parties with economies in transition, to make an initial identification of their needs in relation to capacity-building, capacity development and strengthening of human resources and institutional capacities in order to effectively implement the Protocol and to make this information available to the Intergovernmental Committee no later than 2 months prior to its first meeting;

16. *Requests* the Executive Secretary to make available on the [Access and Benefit-sharing] Clearing-House Mechanism sectoral and cross-sectoral model contractual clauses for mutually agreed terms and to carry out a comparative analysis of their access and benefit-sharing components;

* This paragraph could be moved to a consolidated decision on guidance to the financial mechanism.

17. *Requests* the Executive Secretary to continue to make available on the [Access and Benefit-sharing] Clearing House Mechanism existing guidelines and codes of conduct related to access and benefit-sharing and to carry out a comparative analysis of their access and benefit-sharing components;

18. *Urges* the Parties to the Convention and other States and regional economic integration organizations to designate, as soon as possible and no later than 31 March 2011, a focal point for the Intergovernmental Committee and to inform the Executive Secretary accordingly;

III. ADMINISTRATIVE AND BUDGETARY MATTERS

19. *Decides* that, pending the entry into force of the Protocol, the financial costs of the interim mechanisms shall be borne by the Trust Fund for the Convention on Biological Diversity (BY);

20. *Decides* also to establish until the first meeting of the Parties to the Protocol an interim secretariat of the Protocol hosted by the Secretariat of the Convention;

21. *Takes note* of the amounts supplementary to the funding estimates for the Special Voluntary Trust Fund (BE) for Additional Voluntary Contributions in Support of Approved Activities for the biennium 2011-2012 specified by the Executive Secretary and *invites* Parties and other States to make contributions to that fund;

22. *Decides* to consider and adopt the budget for the Protocol for the biennium 2013-2014 at its eleventh meeting and *requests* the Executive Secretary to submit the draft budget six months in advance.

Annex I to the draft decision

PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING OUT OF THEIR UTILIZATION

[To be inserted]

Annex II to the draft decision

WORK PLAN FOR THE INTERGOVERNMENTAL COMMITTEE FOR THE PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING OUT OF THEIR UTILIZATION

[To be inserted]
