

Genetic Resources: Access and Benefit-Sharing

The second meeting of the Experts' Panel on Access and Benefit-Sharing under the Convention on Biological Diversity (CBD) was held from 19-22 March 2001, in Montreal, Canada.

Fifty government-appointed experts, together with observers from intergovernmental and non-governmental organisations, academia, the private sector, indigenous and local communities, attended the meeting.

The Panel met in Plenary sessions and two Working

Groups. They discussed and produced conclusions on: user and provider experience in access to genetic resources and benefit-sharing (ABS) processes; approaches for stakeholder involvement in ABS processes; and complementary options to address ABS within the CBD's framework, including possible elements for guidelines. The Panel's report and conclusions will be forwarded to the first session of the *Ad Hoc* Open-ended Working Group on ABS, scheduled for 22-26 October 2001, in Bonn, Germany. ▀

Background

The three goals of the Convention on Biological Diversity are to promote the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources. The Convention contains provisions relating to these goals, contained in Articles 15 (Access to Genetic Resources), 16.3 (access to and transfer of technology that makes use of genetic resources), 19.1 (participation in biotechnological research on genetic resources) and 19.2 (access to results and benefits from biotechnologies). Both users and providers of genetic resources are addressed under these provisions. In accordance with its medium-term programme of work, the Conference of the Parties (COP) to the CBD considered ABS at its second, third, fourth and fifth meetings.

Organisation of the Meeting

Hamdallah Zedan, Executive Secretary of the Convention, opened the Meeting and proposed, with the Panel's agreement, to retain the officers from the first Experts' Panel held in October 1999.

The Plenary then heard presentations from six experts regarding the Meeting's agenda items. Working Group I addressed the assessment of user and provider experiences in ABS processes. Working Group II discussed approaches for stakeholder involvement in ABS processes.

Delegates reconvened in Plenary on 21 March to discuss complementary options to address ABS within the CBD framework, including possible elements for future guidelines. The closing Plenary on 22 March reviewed draft conclusions on these three substantive items.

Working Group I: User and Provider Experiences

Experts discussed the role of intermediaries and functions of users and providers. They cited the need to establish national focal points and information networks to allow for users' identification as preliminary steps toward building capacity and raising awareness. The experts noted that the Convention allows for further refinement in the user-provider terminology, and stressed the lack of information regarding intermediaries at the national level. They emphasised the need to systematise voluntary measures and codes developed by national institutions and universities.

Some encouraged alliances among research institutions in developed and developing countries and aid programmes to prepare for contracts with industry.

Participants discussed the distinction between research for academic and commercial purposes, noting the case of contracts incorporating provisions for future commercialisation.

In considering a Summary by the Chair of those points that emerged during discussions, they suggested that elements be prioritised and that the Group follows the mandate of identifying elements and types of guidelines, incorporating suggestions given by the first Experts' Panel.

The Chair proposed the creation of four small draft-

ing groups to outline a range of options addressing issues related to prior informed consent (PIC), intellectual property rights (IPR) and traditional knowledge; benefit-sharing; and capacity building and awareness raising. Several experts also agreed to draft a preamble.

On 22 March, the results of WGI's deliberations, as contained in the draft report of the meeting (UNEP/CBD/EP-ABS/2/L.3) were discussed by the Plenary.



Hamdallah Zedan (CBD Executive Secretary) and Co-Chair Martin Girsberger (Switzerland) during the closing plenary Courtesy: IISD

The final text in L.3 includes sections on capacity building, legislative, administrative or policy measures on ABS, PIC, mutually agreed terms (MAT) and benefit-sharing arrangements; and IPR, traditional knowledge and ABS.

Capacity building is prioritised and should form the essence of the work on ABS.

Working Group II: Stakeholder Involvement

Participants addressed identification of approaches for involvement of stakeholders in ABS processes. They distinguished among users, providers and protectors of genetic resources, as well as among those with specific rights or direct involvement (for example, national competent authorities, industry, local stakeholders) and those with a more general interest (e.g., non-governmental organisations).

Several representatives emphasised information exchange and capacity building for effective stakeholder involvement, especially with regard to local and indigenous communities.

The Group considered a series of draft points developed by the Working Group Chair, which focused on three specific areas: identification of stakeholders; examples of involvement; and identification of approaches for stakeholder involvement.

In Plenary, the Chair of the Group introduced the Working Group's report, outlining the document's three sections. Given the general agreement on the document within the Working Group, experts agreed to postpone the document's consideration until the closing Plenary.

During the closing Plenary, experts discussed conclusions on stakeholder involvement in ABS processes.

Plenary

In Plenary, experts discussed complementary options to address ABS within the framework of the CBD. Co-Chair Jorge Medaglia emphasised that identifying a package of alternative approaches to address countries' needs is considered to be one of the Panel's main outputs. He suggested that the first part of the discussion focus on identifying guidelines, while other complementary measures, such as contractual agreements, capacity creation and information exchange, could be addressed later. He proposed dividing the discussion on guidelines into comments on characteristics and on elements. Co-Chair Martin Girsberger announced the formation of a drafting group to produce text based on these discussions.

When Plenary reconvened, experts reacted to a draft indicative outline of elements for guidelines on ABS. The Chair of the drafting group introduced the outline. He noted that it provided a broad context; addressed scope and principles in a broadly applicable framework; defined objectives and key features; and elaborated four elements, including steps in the process, roles and responsibilities of stakeholders, benefit-sharing, and cross-cutting elements, including capacity building and intellectual property rights in ABS.

Several experts commented on language stating that the guidelines would assist both countries that have and those that have not developed ABS legislation, noting that they would be useful to providers as well as users. Several others noted that the guidelines could enhance or improve

existing policies, and could also be directed at other entities that might be involved.

During discussion on the elements of the guidelines, representatives expressed concern regarding vague terminology under key features with specific regard to acceptability, consistency with other international approaches, coherence with other measures and adaptability. It was noted that such wording would need to be further explained and refined.

During the closing Plenary, experts discussed the revised outline and conclusions. They agreed to clarify language regarding broad arrangements for ABS and to state that the guidelines should not infringe on customary practices and usages of indigenous and local communities, and to emphasise the principle of national sovereignty over genetic resources.

The final text addresses context; scope and level of detail of the guidelines; elements of the guidelines; and cross-cutting elements. Regarding context, the outline addresses broad arrangements for ABS, including international guidelines and other complementary measures, such as: codes of conduct, model agreements, access guidelines developed by other organisations, indicators, information exchange mechanisms and capacity building (see UNEP/CBD/EP-ABS/2/L.3). During the final Plenary, experts reviewed the document, providing both substantive and textual comments, and then adopted the report. (MJ)

