

Convention on Biological Diversity Alliance

Briefings for COP 11

8th – 19th October 2012 in Hyderabad, India

Over the past two months, civil society groups from all over the world within the CBD Alliance network have been discussing, debating and coming to agreement on what they believe to be the key issues for the Hyderabad COP. Together we have prepared a set of 12 COP11 briefing notes on the agenda items, listed here:

In 2012 and beyond, we will continue to face compounding biodiversity, food, fuel, economic and climate crises. Conservation and sustainable use of biodiversity is fundamental to addressing these crises, and charting a truly sustainable path for humanity. We therefore reiterate our call on Parties to strengthen (not weaken) the Convention's core principles – like the ecosystem approach, the precautionary principle, and an understanding that biodiversity cannot be separated from those humans who nurture, defend and sustainably use it.

Presented overleaf are some of key demands from the CBD Alliance network arising from these briefing notes, calling Parties to make strong commitments in Hyderabad. We call on the SCBD and Parties to commit to implement (the good bits in) past Decisions, instead of always making more (and often weaker) Decisions. We believe that COP 11 must continue to build on the policy achievements of the past – by enforcing and strengthening them.

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The Convention on Biological Diversity Alliance (CBD Alliance) is a network of activists and representatives from NGOS, CBOs, social movements and Indigenous People's organisations advocating for improved and informed participation in the CBD processes. For further information on the CBD Alliance contact Tasneem Balasinorwala - just.tasneem@gmail.com or look up www.cbdalliance.org



These briefings were developed by representatives of civil society facilitated by the CBD Alliance. It should not be understood as representing the position of the CBD Alliance nor civil society in general. Rather it is meant to provide background and current information, as well as some viewpoints on key issues for COP11. The views represented in this paper are those of its contributors.

At COP 11 Parties must:

- **Complete** the issue of the legally binding ABS compliance mechanism and prepare the Protocol for implementation. Parties must create the necessary legislative, administrative or policy measures to realise the CBD provisions on ABS;
- **Create** a mechanism to monitor the infractions of CBD provisions on ABS and provide technical and legal advice to affected Parties on legally addressing these infractions within the framework of CBD;
- **Adopt** measurable indicators, national milestones and regular reporting on the Aichi targets to monitor and incentivize implementation of the CBD and its strategic plan, including a mid-term review to be published as GBO-4;
- **Decide** on means for better compliance and implementation, bearing in mind that the CBD is a legally binding treaty based on the Vienna Convention on the Law of Treaties, set from the start towards implementation and not towards producing papers;
- **Fulfil** their reporting obligations as soon as possible so that financial contributions and needs are evident, and financial targets can be set in order to fulfil the Aichi Targets. Where needed, industrialized countries must support developing countries in fulfilling their assessments;
- **Not endorse** risky and untested Innovative Financial mechanisms and policies, and develop and provide a broad range of social, cultural, legal and economic incentives for biodiversity conservation, restoration and truly sustainable use by Indigenous Peoples and local communities (IPLCs) and other small-scale resource users;
- **Resolve** the issue of rights and tenure in light of existing international commitments to uphold Indigenous Peoples' and local communities' land, resource and tenure rights, including UNDRIP, the FAO voluntary guidelines, and the Rio+20 outcome document;
- **Ensure** that the decisions at COP11 are consistent with CBD's commitments to promote the full and effective participation of IPLCs as well as to respect, preserve and maintain their knowledge, innovations and practices;
- **Underline** the importance of EBSAs as a means towards conserving and sustaining the world's marine and coastal biodiversity, while at the same time acknowledging the need for, and ensuring, the full and effective participation of IPLCs and civil society in the EBSA description process. Also ensuring that all future work on this draws on their traditional, scientific, technical and technological knowledge;
- **Adopt** a forest definition that recognizes forests as an ecosystem with its natural diversity and the participation of forest and forest-dependent peoples; and adopt a definition of sustainable forest management that ensures compliance with the CBD and its Aichi Targets, ensuring the conservation of forest biodiversity and primary forests;
- **Affirm** that there is currently no transparent, global and effective regulatory structure for oversight of geoengineering activities and reaffirm the *de facto* moratorium of 2010. No other body adequately oversees governance of geoengineering, and the CBD is the correct body to do so;
- **Reform** legislative, policy and institutional regimes at the national level to build capacity to effectively pursue biodiversity related poverty reduction strategies and plans;
- **Ensure** that food, health, water, and livelihood security based on the conservation of biodiversity and the sustainable use of biological resources are promoted and sustained;
- **Defend and protect** the smallholder and peasant farmers, herders, fishers and other small-scale food providers who conserve and develop agricultural biodiversity thereby securing future food. In so doing, they must prohibit any systems, methods, processes or technologies, which might damage biodiversity and related ecosystem functions in managed ecosystems;
- **Remove** all perverse legal and economic incentives that encourage destructive private or public sector investments in biodiversity exploitation or other processes that damage biodiversity;
- **Apply** the precautionary principle and take a strong position countering expansion of industrial biofuels;
- **Reject** dangerous technologies associated with the bioeconomy, including GE trees, algae and crops bioenergy with carbon capture and storage, biochar, cultivation of invasive species and development of synthetic biology technologies and synthetic organisms;
- **Adopt** a moratorium on the environmental release and commercial use of synthetic biology due to the lack of an adequate scientific basis to justify their use and release or to assess associated risks for biodiversity, socio-economic risks, culture and traditional knowledge, practices and innovations.

Nagoya Protocol on ABS: A tool to fight biopiracy?

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda item: 2

*Related documents: UNEP/CBD/COP/11/6, UNEP/CBD/COP/11/11), UNEP/ICNP/1/6,
UNEP/CBD/ICNP/2/L.9, UNEP/CBD/ICNP/2/L.3*

Summary of issue

The Nagoya Protocol was concluded at COP10, as a legally binding instrument based on the access and benefit sharing provisions of the Convention on Biological Diversity, and will come into force after 50 countries ratify it. The COP has also established an Intergovernmental Committee on the Nagoya Protocol (ICNP) to prepare for the entry into force of the Protocol. However, only 6 countries have ratified the Protocol so far (while 92 countries are signatories). The Protocol itself ultimately did not contain as effective a compliance mechanism as developing countries had pushed for, since the final compromise adopted at COP10 was essentially the result of a deal struck by a small number of countries and all others were pressured to accept it – the “collapse” of the COP10 was a pressure point.

Thus the compliance mechanism was a key issue of dispute at the second meeting of the ICNP, with the developing countries arguing for interpretation of the Protocol and the development of procedures and mechanisms that will create an effective legally binding system to prevent biopiracy and ensure benefit sharing does take place.

On the other hand, the developed countries once again objected to a legally binding mechanism, just as the position held throughout the Protocol negotiations. Some developing countries have concerns over a legally binding mechanism due to their lack of capacity to comply with the Protocol. Malaysia proposed a differentiated approach. Noting that Article 30 of the Protocol deals with measures to promote compliance and address cases of non-compliance, it said that there are two facets in addressing cases of non-compliance. The first is due to lack of capacity and inadequate funding which requires facilitation to enable compliance, taking into account the common but differentiated responsibilities of Parties. Secondly, where there is persistent refusal to comply, this would require a set of stronger measures, otherwise it will not make any sense.

In addition, there has been reluctance on the part of developed countries to provide financial support, and the concept of an international mechanism for benefit sharing in regard to transboundary areas was also objected to.

Recap and Recall

The three CBD objectives are biodiversity conservation, sustainable utilisation of components of biodiversity and the fair and equitable sharing of benefits arising from such utilisation. There are 193 Parties, with the United States not being a Party to the CBD. The Nagoya Protocol was first negotiated under the CBD in 2005 after years of resistance by developed countries. At its adoption after a difficult period of negotiations CoP10 established the ICNP to make preparations necessary for the first meeting of the CoP serving as the Meeting of the Parties to the Protocol (CoP-MoP). It was to meet twice.

The Second meeting of the ICNP was held 2-6 July 2012 in New Delhi (the first was in Montreal in 2011). The Delhi meeting adopted eight draft recommendations, for consideration and adoption by CoP11, and by the first CoP-MoP.

The way forward was agreed on several contentious issues related to the access and benefit-sharing clearing-house, “the need for and modalities of a global multilateral benefit-sharing mechanism” under Article 10 of the Protocol, and the further work to prepare for the first meeting of the CoP-MoP (including the costing of activities for 2013-2014). Other recommendations that were discussed more smoothly and adopted were on “Measures to raise awareness raising of the importance of genetic resources and associated traditional knowledge and related access and benefit-sharing issues”, and “Measures to assist in capacity building, capacity development and strengthening of human resources and institutional capacities in developing countries and countries with economies in transition”. Due to a number of issues that still need work, the Delhi meeting proposed that CoP 11 in Hyderabad mandate a third meeting of the ICNP to address outstanding issues of its work plan in preparation for the first meeting COP-MOP.

It was originally hoped that enough ratifications would lead to the first COP-MOP meeting to be held back-to-back with the COP11 meeting. The anticipation is now for this to take place at the next COP meeting in 2014. However, most developing countries are wary to ratify due to the outstanding lack of clarity of the Protocol's interpretation, and the continuing resistance of developed countries to build an effective benefit sharing system with a strong compliance mechanism. More national discussion and understanding of the implications of the Protocol are needed and civil society groups and Indigenous Peoples and local communities all need to deepen their knowledge and engage with their respective governments to ensure that when the protocol does enter into force, it will achieve the CBD objectives. Meanwhile biopiracy continues and vigilance is urgently required.

What is at stake?

With the escalating biopiracy and acknowledged failure of CBD as emerging from the fourth National Reports of signatory countries and the Global Biodiversity Outlook 3, the Nagoya Protocol is critical to achieve the third objective of CBD and its success will directly influence the success of the other two goals as well. Although the CBD provisions on ABS are legally binding, there has not been a serious review of the implementation (lack thereof) of these provisions by the Parties, a situation that led to the weakening of the CBD as an international treaty. The Protocol, together with the emerging legally binding compliance mechanism can indeed reverse the trend of failure of the treaty in addressing the growing biopiracy.

Proposals for COP 11

The mechanisms of compliance, in particular Articles 30, 18, 16 and 15 of the Protocol, will be the emphasis of COP11 with respect to the Protocol and the heavily bracketed draft recommendation UNEP/CBD/ICNP/2/L.9 of the ICNP's second meeting will be a key document to be discussed. The funding provision for the Protocol is also being taken up. The global mechanism for transboundary genetic resources is another issue where the positions remain divided.

Parties at COP11 must:

- The Parties should complete the outstanding issue of legally binding compliance mechanism and prepare the Protocol for implementation
- The compliance mechanism should ensure that access to biodiversity shall be provided only for countries that are Parties to the Protocol.
- The COP should revisit its decision recognising the GEF as its financial mechanism and return to the proposal for the CBD as well as the Protocol having a financial mechanism under the direct control of the COP.
- Developed countries should take a lesson from the massive funding that some developing countries offered to them to tide over the crisis of their capitalist economy (ie. India \$ 10 billion, China \$ 40 billion, Brazil \$10 billion and South Africa \$ 2 billion).
- The COP should urgently review the implementation (lack thereof) of the CBD article 15.7 that commits Parties to create the necessary legislative, administrative or policy measures to realise the CBD provisions on access and benefit sharing, and take remedial measures.
- Even as we wait for the Nagoya Protocol to come into force, the COP should ask the Secretariat to create a mechanism to monitor the infractions of the CBD provisions on ABS and provide technical and legal advice to affected Parties on legally addressing these infractions within the framework of CBD and also bring such cases of infractions to the attention of COP.

Further information

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Websites: TWN Information Service on Biodiversity and TK: Nagoya Protocol - Differences over compliance system www.twinside.org.sg/title2/biotk/2012/biotk120704.htm, Nagoya Protocol - Some progress, but divergence remains in implementation preparations www.twinside.org.sg/title2/biotk/2012/biotk120703.htm

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Implementation and Integration of the Strategic Plan: Are we upto Speed?

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda item: 3

Related Documents: CBD/COP/11/2, CBD/COP/11/3, CBD/COP/11/4, CBD/COP/11/12, SBSTTA 15/3, SBSTTA XVI/1

Summary of issue

The adoption of the new CBD strategic plan (X/2) with its 20 measurable targets at COP 10 in Nagoya in October 2010 was a key moment in the CBD's history and certainly a major success for all including the CBD Alliance who supported strong and measurable targets. Most Civil Society demands of our last briefing, TOP10 for COP10, were taken up. Now it is necessary to implement the Strategic Plan (SP).

Issues that need to be dealt with in order to do so are participation, integration of the SP into national targets, actions and NBSAPs, installation of a system or systems to monitor progress, setting milestones and financing both the updating of the NBSAPs and the implementation in developing countries.

The upcoming COP meeting must foster activities that can improve the status of implementation of Parties individually and at a global level by assembling detailed information, and by urging Parties to fulfil their obligations.

What is at stake?

The successful implementation of the Strategic Plan (SP) is largely dependent on the political will of the Parties, as the key actions to be taken are now in their hands. If the Aichi Targets are to be achieved, Parties need to start implementing the SP soon, having barely 8 years to go up to 2020. In this context, WGRI has played a very important role in providing an overview on the progress of implementation and in developing recommendations for COP 11. Following paragraph 17 b of decision X/2, the CBD secretariat has prepared an analysis (WG-RI recommendation 4/1, included in CBD/COP/11/4) of national actions and targets that have been established to integrate the CBD SP targets into national policies. This enabled WGRI 4, and will enable COP 11, to assess the contribution of such national and regional targets towards the global targets.

While WGRI as a policy instrument reflects what has been done and needs to be done in terms of transposition into national plans and activities, SBSTTA as a scientific forum is the place where the actual implementation is reflected.

SBSTTA XV/1 suggests indicators for all Aichi targets and gives guidance on how to handle these, while SBSTTA XVI/2 (contained in the annex to CBD/COP/11/3) has made recommendations for the structure of GBO-4. For the COP, a reference on the milestones included in the annex of SBSTTA 15/3 needs to be added to the text of SBSTTA recommendation XV/1.

Recap and Recall

The analysis provided by the secretariat reveals that so far only 13 Parties - less than 8% of Parties! - have updated their NBSAPs to integrate the new SP targets (although many more are working on doing this). The WGRI draft recommendations include not only a critique on the limited progress made so far but also a strong reminder to Parties to urgently update their NBSAPs in line with the SP and the overall implementation of the SP. Also Parties are requested to submit information on this and to suggest further ideas how to strengthen the CBD SP implementation.

We support the recommendations as they are and further suggest the provision of a similar compilation on the implementation every two years.

The midterm review of the CBD Strategic Plan alias GBO-4 needs to be complemented by further reviews, both in terms of implementation and policy progress. COP 10 has decided to review progress in implementation at every conference of the parties (X/2, paragraph 14). To do this on an informed basis, SBSTTA (XV/1) has proposed a set of indicators which need to be adopted by COP (see COP/11/2), used and updated every two years. This applies also to the milestones contained in SBSTTA/15/3 which are needed to judge if we are indeed on track to reach the targets. Policy progress – i.e. transposition - needs to be monitored at the same intervals by WGRI.

Of course, much of the progress is highly dependent on the availability of financial resources, and the extent to which the decisions on upscaling biodiversity finance contained both in the strategic plan (X/2) and the resource mobilization strategy (X/3) are implemented. It is important that new and additional financial resources be provided by developed countries, as committed under the CBD, and not yet another re-counting of existing development aid funds or by unclear and dangerous “innovative financial mechanisms” (*see also CBD Alliance Briefing on Agenda Item 4 – “5. Biodiversity is a public good that needs public money”*).

Parties at COP11 must

- Adopt, and commit to regularly apply, the indicators suggested in SBSTTA XV/1 by adopting the relevant draft decision contained in CBD/COP/11/2
- Reaffirm to review the implementation of the Strategic Plan at each meeting of the CBD, as decided in decision X/2
- Set global milestones for the implementation of the CBD Strategic Plan as contained in the annex of SBSTTA draft recommendation 15/3
- Adopt SBSTTA recommendation XVI/2 on the preparation of the fourth edition of the Global Biodiversity Outlook
- Implement commitments to provide new and additional finance for the implementation of the CBD Strategic Plan and adopt financial targets as requested in decision X/3 from public sources
- Generally decide on means for better compliance and implementation, bearing in mind that the CBD is a legally binding treaty based on the Vienna Convention on the Law of Treaties, set from the start towards implementation and not towards producing papers

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Biodiversity is a public good that needs public money

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda item: 4

Relevant documents: UNEP/CBD/COP/11/4, UNEP/CBD/COP/11/14

Summary of issue

Biodiversity is a public good, and therefore it requires public money. Strategies to provide financial support to biodiversity conservation and ecosystem restoration must not lead to market mechanisms and to the commodification of Nature. They must not blindly embrace risky approaches like forest carbon offset markets, biodiversity offsets or Green Development Mechanism. We therefore repeat our call from COP10 for Parties to agree on ambitious targets to provide new, additional and long overdue public financial resources at COP 11 and we would like to remind them that they have themselves made a commitment to do this (Decision X/3, para 8 i).

Recap and Recall

At COP 10 in Nagoya, developing countries supported the adoption of the Strategic Plan under the precondition that countries - notably industrialized ones - would upscale their financial contributions to enable its implementation. According to Decision X/3 and Aichi Target 20, the exact finance requirements were to be subject to an assessment of biodiversity expenditure, budgets and needs. Decision X/3 contains a comprehensive list of indicators on biodiversity expenditure and implementation targets. But the list is so detailed that even industrialized countries are struggling to make assessments. No country, although some have tried, has managed to carry out this task fully (WG-RI/4/7) and it has been concluded that for the GEF alone, a sum of up to 200 billion USD is needed for CBD strategic plan implementation from 2014-2018 (CBD/COP/11/15/Rev.2 – Table 1). According to the draft decision CBD/COP/11/14, paras 9 and 10, roughly ten times as much money will be needed altogether

What is at stake?

The failure of industrialised countries to make commitments:

Implementing the Strategic Plan will not be possible without adequate finance. Despite this evident need for financial support and their commitment, most countries have not given enough finance. Even in the current financial crisis, this suggests the lack of political will. So while States are cutting budgets, money is allocated to practices that threaten biodiversity. Every year, for example, more than 500 billion US dollars are spent on fossil fuel subsidies worldwide. Other subsidies and perverse incentives go to destructive forms of agriculture and landuse.

Innovative Financial Mechanisms: distraction from the real needs and obligations:

Instead of (re)allocating, governments are turning to so-called Innovative Financial Mechanisms (IFMs) and market-based instruments such as biodiversity offsets and payments for ecosystem services (PES). Many of these would not only require putting a financial value on biodiversity to enable trade, but would have serious implications for land rights and the prioritization of one ecosystem 'service' over (carbon storage over biodiversity). A clear distinction is therefore needed between strategies for resource mobilization by Parties that enable them to comply with their financial commitments under the CBD, and strategies that facilitate increased financial contributions of the private sector to biodiversity conservation. Regardless of the scope and desirability of private sector contributions, in general their activities do not support compliance with the legally binding commitments of the CBD and there is a need to guard against IFMs becoming a public subsidy for the corporate sector.

Ecosystems are neither interchangeable nor tradeable:

Ecosystems are unique, interactive wholes - this and the “complex, difficult-to-measure, and non-interchangeable” characteristics of biodiversity make them difficult to trade, or offset. Calculating the value of biodiversity is incredibly problematic. For example, ecosystem services – which are currently advocated as a proxy for ecosystem value - are only roughly correlated to the biodiversity of an ecosystem. A tree plantation, for example, can be almost as good for providing water retention or purifying the air as a primary forest, but in terms of biodiversity the latter is much more valuable. Even if we take other additional values – such as the value of forest fruit - into account there is still a chance that other important values are overlooked. The value attached to biodiversity depends very much on alternatives for the use of the resources, and is sometimes derived from the “willingness to pay” which is mainly hypothetical and can be unsuitable to calculate value. Also, putting a price on Nature opens the door to a ‘business-as-usual’ approach. If biodiversity has a price, it can be bought. Then, it can be argued, that business can legitimately continue destroying Nature, while either paying for it to be protected or created elsewhere through ‘Offsets’. Biodiversity ‘offsets’ often do not take place before the damage has been done and so there is little guarantee that the offsetting will be successful.

Time to act:

Parties should clearly specify their needs and develop structures to ensure the money received is used for the purposes intended. This should not only take place within governments, but also in consultation with various stakeholders. Women, Indigenous Peoples, local communities, farmers, fisherfolk, and pastoralists are involved with the use, conservation, and restoration of biodiversity, and their livelihoods are at risk from misdirected IFMs. Governments must commit to raising their contribution to biodiversity beyond the current GDP percentage, which according to some party submissions is between 0% to 0.4%. This is only possible if the finance ministries, financial administration and parliaments support the implementation of the CBD and the Aichi targets and the COP sends a signal to involve them.

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Parties at COP11 must

- Implement decision X/3, para 8i, and set concrete resource mobilisation targets for adoption at COP 11 to increase funding by a factor of ten as a minimum;
- Fulfil their reporting obligations under X/3 as soon as possible so that financial contributions and needs can be set to fulfil the other 19 Aichi Targets; where needed, industrialized countries must support developing countries in fulfilling their assessments;
- Industrialized countries must pledge sufficient sums by/at COP 11 so the 2020 Strategic Plan (SP) can be achieved;
- Adopt draft decision CBD/COP/11/14 as it stands with the exception of the percentage compounded annual increase in international financial flows to developing countries from 2012 to 2020 in para 12 a. This should be increased by the factor 10 instead of 10% in order to comply with the identified needs;
- End perverse incentives and subsidies that contribute to biodiversity loss and redirect the funds towards measures that help protect biodiversity;
- Develop and provide a broad range of social, cultural, legal and economic incentives for biodiversity conservation, restoration and sustainable use (especially by women, Indigenous Peoples, local communities and small-scale food providers like farmers, fisherfolk, and pastoralists);
- Recognize and respect the historical territorial and use rights of Indigenous Peoples and local communities when implementing IFMs and support the significant contribution of Indigenous Peoples’ and Local Communities’ conserved territories (ICCAs);
- Not endorse risky and untested Innovative Financial mechanisms and policies, particularly offsetting mechanisms.

Further information

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See also square brackets, September 2012 edition, articles by Günter Mitlacher and Friedrich Wulf; Vatn et al, “Can Markets Protect Biodiversity” NORAD Report 19/2011 Discussion.

Article 8(j) and Related Provisions: focus on Article 10(c) on customary sustainable use

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda item: 7

Relevant Documents: UNEP/CBD/COP/11/7, UNEP/CBD/WG8J/7/5/Add.1¹

Summary of issue

Among the various issues to be discussed at COP11 relating and relevant to Indigenous Peoples' and local communities' traditional knowledge, this note highlights mainly the new major component on customary sustainable use (article 10c).

Customary sustainable use (CSU) is an element of two cross-cutting issues of the CBD: 'sustainable use of biodiversity' – the focus of Article 10 – and 'traditional knowledge, innovations, and practices' – the focus of Article 8(j) and related provisions. Parties to the Convention have increasingly acknowledged the value and importance of customary sustainable use and traditional knowledge in conserving and upholding biodiversity, land- and seascapes, and also protected areas.

Recap and Recall

In 2008, COP9 (in Decision IX/13), requested the Executive Secretary to provide advice on how Article 10(c) could be further advanced and implemented as a priority. As an outcome of this process, COP10 (Decision X/43) decided to include a new major component on 10(c) in the revised Programme of Work on Article 8(j), building on the Addis Ababa Principles and Guidelines.

In recommendation 7/6 to COP11 the WG8(j) proposes to develop a Plan of Action on customary sustainable use, and proposes an initial list of 'indicative tasks'. The WG8(j) has also taken some first steps to integrate 10(c) as a cross-cutting issue throughout the Convention, starting with the programme on protected areas (through integration of specific guidance in the web-based modules for this programme) and invites Parties to address and incorporate CSU and CSU policies in their national biodiversity strategies and action plans (NBSAPs). The WG8(j) based its work on the outcomes and advice of an international expert meeting on this issue, held in June 2011, and on submissions received in response to a call for views on this subject.

Time line of key 10(c) events:

- 1998:** Working Group on Article 8(j) and Related Provisions established.
- 2000:** Programme of Work on Article 8(j) and Related Provisions endorsed.
- 2000 – 2004:** Decision V/24 and VII/12 request practical information about and examples of CSU and advice on how to best implement article 10(c).
- 2004:** Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity adopted.
- 2004 – 2010:** in-depth case studies on CSU
- 2008:** COP9 request for advice how Article 10(c) can be further advanced and implemented as a priority.
- 2010:** In-depth review of implementation of the programme of work on Article 10 and Addis Ababa Principles and Guidelines.
- 2010:** Decision X/43 to include a new major component on 10(c) in the revised Programme of Work on Article 8(j).
- 2011:** Expert Meeting on Article 10 and 10(c) and submission of views.
- 2011:** WG8(j)-7 recommendation to COP11 on Plan of Action with indicative list of tasks.

¹ See also Written Submission on Article 8(j) and Related Provisions (by FPP, Natural Justice and 24 other signatories).

What is at stake?

It is very important that COP11 uses the opportunity to agree on the outlines of a strong new work component on customary sustainable use that will provide guidance to Parties for improved implementation of Article 10(c). This is crucial and very much needed because effective implementation of article 10(c) at national and local levels is still a big challenge.

The “in-depth review of implementation of the programme of work on Article 10 of the Convention and application of the Addis Ababa Principles and Guidelines” that was carried out in 2010 (SBSTTA-14 and COP10) and which addressed the question to what extent implementation of Article 10 had been successful, concluded: “with specific reference to Article 10(c), customary sustainable use of biological resources at national and local levels is hampered by lack of progress in securing indigenous and local communities’ access to lands and biological resources and by lack of their effective participation at all levels of resource management and decision-making”.²

In this respect many Indigenous Peoples’ and local communities’ customary practices are under serious threat, which is also related to lack of recognition of traditional authorities and customary laws, and loss of biodiversity-relevant knowledge under pressure of western education and economies. External developments without FPIC destruct or degrade traditional territories or reduce access, also leading to a decline in customary practices and knowledge. In-depth case studies clearly illustrate the central importance of securing access to customary territories and areas and decision-making power over use, control and management of resources in order to be able to apply, generate, maintain, and transmit customary sustainable practices and associated knowledge.³ These linkages must be firmly acknowledged and supported by Parties, which until now has not truly happened at any CBD meeting.

2 UNEP/CBD/SBSTTA/14/7 page 1 (executive summary).

3 See www.forestpeoples.org/customary-sustainable-use-studies

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Proposals for COP11

While the WG8(j) agreed that for the time being the indicative tasks should not be addressed towards a specific actor, efforts should be made to keep the preliminary guidance as concrete, practical and action-oriented as possible: rather than developing more guidelines, advice or information the initial should provide concrete steps for implementation. In the further elaboration and deliberations about the indicative tasks, Parties and others should work with already adopted guidance and language in the Addis Ababa principles, rationale and operational guidelines and ensure maximum consistency and cross-reference.

Parties at COP11 must

Resolve the issue of rights and tenure in light of existing international commitments to uphold Indigenous Peoples’ and local communities’ land, resource and tenure rights, including UNDRIP, the FAO voluntary guidelines, and the Rio+20 outcome document. For instance, the (indicative) tasks for the draft Plan of Action could encourage Parties to:

- Take necessary measures to secure Indigenous Peoples’ and local communities’ territories and land, resource and tenure rights, taking into account the specific rights and needs of women;
- Promote and support stewardship, governance and management by Indigenous Peoples and local communities;
- Ensure that laws, policies, and decision-making processes at all levels appropriately recognize and respect customary laws, institutions, worldviews, resource management practices, and traditional knowledge, languages, educational systems, and occupations;
- Respect and apply the right of free, prior informed consent of Indigenous Peoples and local communities in all actions that may affect their territories, lands and waters (including and inland, coastal and marine).

Further information

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[http://naturaljustice.org/wp-content/uploads/pdf/Joint_submission_Article_8\(j\).pdf](http://naturaljustice.org/wp-content/uploads/pdf/Joint_submission_Article_8(j).pdf)

Marine and Coastal Biological Diversity: Balancing on one leg?

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda item: 10

Related documents: UNEP/CBD/COP/11/23, UNEP/CBD/SBSTTA/16/5, UNEP/CBD/SBSTTA/16/6, UNEP/CBD/SBSTTA/16/7 and UNEP/CBD/SBSTTA/16/INF/10,

Summary of issue

Marine and coastal biological diversity has been one of the enduring priorities within the work of the CBD. An important focus during COP11 will be on ecologically or biologically significant marine areas (EBSAs). It will also focus on sustainable fisheries, addressing the adverse impacts of human activities on marine and coastal biodiversity, implementing the work plan on coral bleaching, the study on the impacts of anthropogenic underwater noise, the joint expert review process on the impacts of ocean acidification; and the study on the impacts of marine debris. COP11 will further discuss the development of *Voluntary Guidelines for the consideration of Biodiversity in Environmental Impact Assessments and Strategic Environmental Assessments in Marine and Coastal Areas* (VG), building upon the existing guidelines endorsed through decision VIII/28.

It is important that these decisions at COP11 are consistent with CBD's commitments to promote the full and effective participation of Indigenous Peoples and local communities (IPLCs), as well as to respect, preserve and maintain their knowledge, innovations and practices. In particular it is imperative that Parties acknowledge the preliminary nature of the EBSA description process, and ensure that all future work on this draws on the traditional, scientific, technical and technological knowledge of IPLCs, ensuring their full and effective participation. It is also imperative that the proposed voluntary guidelines fully integrate principles from relevant decisions and guidelines of the CBD related to IPLCs.

Recap and Recall

COP10 established a global process involving a series of regional workshops, for describing EBSAs through the application of scientific criteria. While much of the earlier emphasis was on areas beyond national jurisdiction, EBSAs are being identified in all marine areas, even within national jurisdiction. Decisions from COP 9 (IX/20) and 10 (X/29) call for integrating the traditional, scientific, technical and technological knowledge of IPLCs, consistent with Article 8(j) of the Convention, and ensuring the integration of social and cultural criteria and other aspects for the identification of marine areas in need of protection, establishment and management of marine protected areas. The Voluntary Guidelines (VG) are based on the EIA guidelines endorsed by decision VIII/28, with additional considerations specifically for marine and coastal areas including marine areas beyond national jurisdiction.

What is at stake?

COP11 will be discussing SBSTTA recommendation XVI/4 (Marine and coastal biodiversity: ecologically or biologically significant marine areas), SBSTTA recommendation XVI/5 (Marine and coastal biodiversity: sustainable fisheries and addressing adverse impacts of human activities on marine and coastal biodiversity) and SBSTTA recommendation XVI/6 (Marine and coastal biodiversity: marine spatial planning and voluntary guidelines).

EBSAs: Traditional knowledge, participation of IPLCs and the use of social and cultural criteria.

To the extent that describing and identifying EBSAs is likely to lead to measures for their management, it is essential that the entire process is faithful to CBD's commitments in relation to IPLCs. This will also help to avoid the serious shortcomings associated with exclusionary and top-down conservation and management observed in other elements of this programme of work, as with marine and coastal protected area practice. Progress has been reported in describing EBSAs through the application of scientific criteria, including through the organization of regional workshops.

There has been, however, no conscious attempt to integrate traditional, scientific, technical and technological knowledge of IPLCs in this process. The regional workshops held in western South Pacific, for example, did not have any participation of IPLCs, nor did the report of the meeting recommend the need to integrate such knowledge systems in future work on EBSAs. This is despite the fact that the traditional knowledge of indigenous and local fishing communities in the region has been well documented. It is therefore imperative that Parties acknowledge this preliminary nature of the EBSA description process, and ensure that all future work towards elaborating EBSAs draws on traditional, scientific, technical and technological knowledge of IPLCs, and with their full and effective participation.

In this context, the study (UNEP/CBD/SBSTTA/16/INF/10) identifying specific elements for integrating the traditional, scientific, technical and technological knowledge of IPLCs for the identification of EBSAs and the establishment and management of marine protected areas, needs to be welcomed and integrated into all aspects of work on this issue. Notably, the study recognizes the strong link between social conditions and the long-term biological success of conservation initiatives. It also recognises the application of social and cultural criteria in addition to ecological criteria by States and intergovernmental competent organizations, of EBSAs, particularly in areas with pre-existing human populations and uses. This underscores the importance of ensuring that all efforts undertaken for describing EBSAs take into account social, cultural and economic aspects (especially livelihoods and well-being) of IPLCs traditionally dependent on the resources.

Integrating considerations of marine and coastal biodiversity into EIAs:

The proposed VG can respond to the concerns of IPLCs about the need for effective EIAs in coastal and marine areas, and take into account the specificities of the coastal and marine space, an issue that is being raised by them across the world but not taken into consideration. It is essential to fully integrate principles from two important guidelines of the CBD, that is the Tkarihwaí:ri Code of Ethical Conduct to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities, and the Akwé: Kon Voluntary Guidelines for the Conduct of Cultural, Environmental and Social Impact Assessment regarding Developments Proposed to Take Place on, or which are Likely to Impact on, Sacred Sites and on Lands and Waters Traditionally Occupied or Used by Indigenous and Local Communities. Moreover, given that tenure rights of local fishing communities in coastal and marine areas (as compared to terrestrial ecosystems) are often not well recognized, it is essential that the EIA guidelines specifically require the identification of all legitimate tenure rights of indigenous peoples and local fishing and other communities (even where these are not formally recorded by law) to marine and coastal areas and resources.

The Convention on Biological Diversity Alliance (CBD Alliance) is a network of activists and representatives from NGOs, CBOs, social movements and Indigenous People's organisations advocating for improved and informed participation in the CBD processes.

For further information on the CBD Alliance contact **Tasneem Balasinorwala** - just.tasneem@gmail.com or look up www.cbdalliance.org



Proposals for COP11

Identification of ecologically and biologically significant areas (EBSAs)

Parties at COP11, must:

- Ensure that all future work towards elaborating EBSAs draws on traditional, scientific, technical and technological knowledge of indigenous and local communities, and is undertaken with their full and effective participation.
- Ensure that all efforts for describing EBSAs take into account social, cultural and economic aspects of IPLCs traditionally dependent on the resources.
- Effectively integrate findings and proposals from the study (UNEP/CBD/SBSTTA/16/INF/10) into the EBSA process.
- Prepare training manuals to offer guidance on describing EBSAs necessarily includes guidance on integrating the traditional, scientific, technical and technological knowledge of indigenous and local communities as well as social and cultural criteria for the identification and description of EBSAs.
- Ensure the full and effective participation of IPLCs in the future regional workshops and all other processes for identification of EBSAs

Integrating considerations of marine and coastal biodiversity into EIAs

Parties at COP11, must:

- Ensure that the proposed Guidelines for the consideration of biodiversity in environmental impact assessments (EIAs) and strategic environmental assessments (SEAs) in marine and coastal areas fully integrate principles from two important guidelines of the CBD, that is the The Tkarihwaí:ri Code of Ethical Conduct and the Akwé: Kon Voluntary Guidelines.
- Ensure the additional elaboration of the guidelines for coastal and marine areas, including within national jurisdiction, with the full and effective participation of indigenous people and local communities in the process, and drawing on their traditional knowledge systems.
- Ensure the proposed Guidelines specifically require the identification of all legitimate tenure rights of indigenous peoples and local fishing and other communities (even where these are not formally recorded by law) to marine and coastal areas and resources.

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Forests and REDD+ Safeguards

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda Items: 11.1 and 13.2

Relevant documents: UNEP/CBD/COP/11/24, UNEP/CBD/COP/11/3

Summary of issue

Instead of focusing on developing non-binding guidance for non-binding safeguards for an inherently flawed REDD+ regime COP11 should call upon Parties to use forest funding for the development of no-regrets strategies.

These strategies include the recognition of the territorial, Free Prior and Informed Consent (FPIC) and other rights of Indigenous peoples and local communities and strategies that reduce demand for commodities that drive forest loss.

Recap and Recall

While the Parties to the CBD have agreed upon to elaborate an expanded program of work on forest biodiversity, and while forests as an ecosystem represent an estimated 80% of the world's terrestrial biodiversity, and should therefore be high on the agenda of the CBD, the political momentum for forest policies seems to have shifted away from the CBD to another international legally binding regime, the UN Framework Convention on Climate Change (UNFCCC). Since 2005, Parties to the UNFCCC are negotiating an agreement on Reducing Emissions from Deforestation and forest Degradation and enhancing forest carbon stocks (REDD+). While the focus of the UNFCCC is limited to carbon emissions, there is a significant concern shared by Governments, stakeholders and rights holders that REDD+ will not only ignore the land rights of Indigenous Peoples and the role of forests in providing livelihoods for many of the poorest people in the world,¹ but also biodiversity aspects. As the only definition of “forests” that was agreed upon within the framework of the climate regime pays no attention to biodiversity and includes tree plantations as well as “temporarily unstocked areas”, there is no guarantee that REDD+ policies will contribute to biodiversity conservation. REDD+ also incentivizes large-scale monoculture tree plantations of fast growing genetically modified exotic often invasive and resources intensive species like eucalyptus and pine, to the detriment of native forest and non-forest biodiversity. To counter these threats, a number of safeguards were adopted by the UNFCCC, but these are non-binding, and formulated in a very generic manner. Parties to the CBD have started to negotiate detailed guidance for countries to implement the biodiversity safeguard, even though there is no legal obligation for the Parties to the UNFCCC to implement or even accept this guidance.

1 See for example the presentation by the Least Developed Countries at the August 2012 UNFCCC workshop on REDD+ finance: http://unfccc.int/meetings/bangkok_aug_2012/workshop/7028.php

What is at stake?

As a result of this regime incoherence, forests are on the agenda twice at the 11th Conference of the Parties of the CBD (COP11): the guidance on safeguards will be discussed under agenda item 11.1 while forest biodiversity will be discussed under agenda item 13.2. The background document and draft decision for the latter is brief and rather non-substantive and mainly demonstrates how much the CBD's expanded Programme of Work on Forest Biodiversity has lost its political momentum. The reasons why the political momentum on forests has shifted away to the UNFCCC are mainly financial: it has been assumed that REDD+ would generate up to 30 billion USD per year in support for the forest(ry) sector.² However, as the UNFCCC workshop on REDD+ finance workshop (Aug 2012) showed, countries now realize that REDD+ funding will be “predominantly public”. In the absence of deep emission cuts, the assumption that up to 30 billion USD per year in REDD+ funding could come from a global carbon market has proven to be a fairy tale. An estimated 8 billion USD in public funding has been committed and/or redirected from existing forest funding to make developing countries “ready” for a REDD+ regime until now, but increasingly the question is being asked “Ready for What?”³ As Mexico pointed out during the latest climate negotiations in August 2012, there is a “deafening silence” on mid-term finance for climate mitigation. Equally disturbing is the tendency of Northern-driven investments in tropical forest countries for creating “bioeconomy” markets that price and trade in a wider range of fundamental functions of forests such as water and also biodiversity itself, intending to integrate the incalculable value of forests into financial markets.

2 E.g. Peskett, L., Huberman, D., Bowen-Jones, E., Edwards, G. and Brown, J., 2008. Making REDD work for the Poor. Overseas Development Institute and IUCN, London, UK.

3 Denmark at the Forest Carbon Partnership facility meeting in March 2012.

Proposals for COP11

As forest conservation cannot wait until a rather uncertain new climate regime will be put into place, at its very earliest in 2020, there is a clear need to develop “no regrets” strategies: recognizing the rights and governance of Indigenous Peoples and forest-dependent communities over their territories and areas, improving the enforcement of forest and human rights laws and agreements, including the right of FPIC of Indigenous Peoples and Benefit Sharing threatened by destructive projects like roads, hydrodams, mining and bioenergy monocultures, and redirecting perverse incentives to reduce demand and demand creation for products that destroy forests, like bioenergy, palm oil, timber, rubber and meat. These strategies would indeed address direct and underlying drivers of deforestation.

The participatory elaboration and implementation of these strategies can easily be financed through existing REDD+ readiness funding, and they will lead to improved forest policy regardless of the uncertain financial future of REDD+. The many policy recommendations that have already been developed by the CBD, not only in the field of forest biodiversity but also related to the implementation of articles 8(j) on traditional knowledge, article 10(c) on sustainable use, and article 13 on incentives, can provide very useful tools in this respect. Meanwhile, it is clear there remains an urgent need for an internationally agreed definition that recognizes forests as an ecosystem and crucial for forest-dependent peoples

While developing and adopting guidance for biodiversity safeguards for the UNFCCC is certainly potentially helpful if the latter is willing to accept the advice, the CBD must above all call on Parties to ensure coherence in their forest policy and implement existing CBD policy recommendations within the framework of their national REDD+ programs, including in particular recommendations that promote financially sustainable “no regrets” policies.

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Parties at COP11 must

- Recognize and strengthen of Indigenous Peoples' and Local Communities' conserved territories (ICCAs), and other community-driven forest conservation and restoration initiatives;
- Establish policies to enhance enforcement of existing forest and human rights laws and agreements, including the right to Free Prior and Informed Consent;
- Address drivers of forest loss like large-scale and/or industrial bioenergy, timber, palmoil, rubber and meat production and consumption. As the impacts of these commodities are quantity- rather than quality-related, standards and certification schemes like FSC and RSPO have little to contribute; They legitimate the large-scale, industrial and monoculture model, that guarantees the huge quantities produced today of these products, while such a model per definition causes many impacts. Rather, there is a clear need to redirect perverse incentive schemes that promote their production, and to put in place regulations, education programs and other incentives that reduce the consumption of these products to sustainable levels and promote locally sustained alternatives in the main consumption countries.
- Adopt a forest definition that recognizes forests as an ecosystem with its natural diversity and the participation of forest and forest-dependent peoples;
- Adopt a definition of sustainable forest management that ensures compliance with the CBD and its Aichi Targets, and thus ensures the conservation of forest biodiversity, including in particular in primary forests.

Further information

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Geoengineering: Dead End for Biodiversity?

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda item: 11.2

Relevant documents: UNEP/CBD/COP/11/3, UNEP/CBD/SBSTTA/REC/XVI/9, UNEP/CBD/SBSTTA/16/INF/28, UNEP/CBD/SBSTTA/16/INF/29, UNEP/CBD/SBSTTA/16/INF/30

Summary of issue

Geoengineering refers to a range of proposed technologies designed to intervene in and alter earth systems on a large-scale – particularly proposals to manipulate the climate system as a “technofix” for climate change.

Political and commercial interest in geoengineering is growing. Geoengineering techniques are highly risky and could negatively and irreversibly affect biodiversity on a global scale and to an unprecedented degree as well as dispossess some of the world’s most vulnerable people.

Recap and Recall

In October 2010, the CBD adopted a *de facto* moratorium on testing and deployment of geoengineering technologies (decision X/33 paragraph 8w) and called for studies on regulatory frameworks and potential impacts on biodiversity (paragraphs 9l and m). Those studies were presented at SBSTTA 16, and further recommendations were made for the COP to consider for adoption (XVI/9). The recommendations reaffirm the key decision on the *de facto* moratorium and include bracketed text – offering options for (more, or less strong) wording that emphasises global emissions reductions as the priority in combating climate change as well as offering (more, or less urgent) statements on the need for a global governance mechanism. The SBSTTA 16 recommendations note the work of the IPCC, which will take up the issue of geoengineering in its Fifth Assessment Report, due in 2014. The recommendations also call for updated/expanded reports on geoengineering’s potential impacts on biodiversity and on the views of indigenous and local communities.

What is at stake?

Geoengineering’s ability to sequester carbon or cool the planet is speculative, scientifically disputed and high risk. Geoengineering puts at risk both biodiversity and the ability of all people, especially local communities and indigenous peoples, to equitably enjoy biodiversity’s benefits. Further, geoengineering potentially dilutes or derails efforts to reduce CO2 emissions.

Dangers from geoengineering techniques include:

- Disruption of marine ecosystems via ocean fertilisation (e.g., stimulating the growth of algae intended to absorb excess atmospheric CO₂);
- Altered global rainfall patterns and resulting food insecurity due to a “novel balance” between sunlight and atmospheric CO₂ via manipulating the reflectivity of the planet, e.g., by whitening clouds or shooting sulphates into the stratosphere to reflect sunlight into outer space;
- Further destruction of the ozone layer as a result of sulphur particles in the stratosphere;
- Increased land pressure, food insecurity and unknown ecosystem impacts resulting from attempts to use “biosequestration,” e.g., biochar, bioenergy with carbon capture and storage (BECCS), burying/ dumping large quantities of biomass in estuaries, altering plant growth;
- Adverse ecological impacts on seabed and marine ecosystems as well as increased soil-nutrient loss and land-use pressures via dumping biomass or CO₂ into oceans and estuaries.

Since Decision X/33, there have been attempts to bypass the moratorium. Geoengineers pursuing real world geoengineering experiments often claim there is an international governance vacuum in order to move forward without independent multilateral oversight.

Some are openly contemptuous of the CBD decision (particularly its decision on ocean fertilization) and claim it has been superseded by other agreements, although SBSTTA 16 made clear this is not the case. Further, some advocates of geoengineering have commercial interests in its development, including holding patents on hardware for delivery.

Proposals for COP 11

As the leading international, multilateral forum addressing this emerging issue, the CBD should assert its role by re-affirming and strengthening its 2010 decision and by closing any and all loopholes. The most straightforward way to do so would be to take a clear decision to prohibit open-air testing of geoengineering technologies because these could have an impact on biodiversity or on the rights of local and indigenous communities, as well as to reject proposals for policies or incentives that support the scale-up of technologies intended to sequester carbon in the biosphere that could harm biodiversity. The CBD should also prohibit delivery mechanism testing because this sends a strong political signal.

Parties at COP11 must

- Reaffirm CBD Decision X/33 paragraphs 8w and x and further urge that Parties neither fund nor permit open-air geoengineering experiments, or fund or otherwise incentivise the scale-up of technologies intended to sequester carbon in the biosphere that could harm biodiversity;
- Affirm that there is currently no transparent, global and effective regulatory structure for oversight of geoengineering activities. No other body adequately oversees governance of geoengineering, and the CBD is the correct body to do so;
- Not rely, or suggest a reliance, on the IPCC's AR5 to take geoengineering's impacts on biodiversity into account. Not only is AR5 preparation already at a late stage, the CBD is the expert organisation to consider biodiversity impacts. Moreover, the IPCC's work must not be allowed to undermine the CBD Decision X/33;
- Clarify that requests for research on geoengineering be studies on geoengineering's potential impacts, not construed as feasibility studies. Research on biodiversity and ecosystem resilience is the greater need.

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Biodiversity and Development: Bridging 'The' Gap

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda item: 12

*Relevant Documents: UNEP/CBD/WG-RI/4/INF/11,
UNEP/CBD/COP/11/33/REV1, UNEP/CBD/WG-RI/4/5,*

Summary of issue

Poverty eradication is deeply embedded in the triple objectives of CBD, especially in the objectives of sustainable use and equitable benefit sharing, as well as in the preamble and several operational Articles. It is imperative to gear the CBD process to effectively implement the poverty related objectives of the Convention.

Decision X/6, paragraph 14, on the integration of biodiversity into poverty eradication and development; the establishment of the expert group on Biodiversity for Poverty Eradication and Development which includes members of civil society and non-governmental organisations; the Dehradun recommendations and the report of the Expert meeting on Biodiversity for poverty eradication and development are certainly steps in the right direction.

Recap and Recall

The Biodiversity for Development initiative was established by the Secretariat of the Convention on Biological Diversity (SCBD) with the support of the French and the German governments as a follow-up of the Conference on Biodiversity in European Development Cooperation (Paris – September 2006) and the last Trondheim/UN Conference on Ecosystems and People – Biodiversity for Development – The road to 2010 and beyond (Norway – November 2007). The main goal of this initiative is to promote the integration of biodiversity considerations into sectoral policies or cross-sectoral strategies (e.g. Poverty Reduction Strategy Papers (PRSPs) or Sustainable Development Strategies) as well as ensuring the development dimension in National Biodiversity Strategies and Action Plans (NBSAPs).

The SCBD has invited Parties to express their views regarding the “Dehradun Recommendations”¹ taking into consideration the discussions during WGRI4 and the Rio+20 outcomes. The latter recognize biodiversity as a cross-cutting issue that is referred to throughout the text, although it should be noted developing countries objected to the term “environmental services”. The Rio+20 outcome also explicitly recognizes the importance of biodiversity for the welfare of local communities.

¹ The first meeting of the Expert Group on Biodiversity for Poverty Eradication and Development, held in Dehradun, India, from 12 to 15 December 2011.

What is at stake?

There are two principal ways in which biodiversity and poverty are related. One is the degradation of biodiversity and the consequent escalation of poverty, and the other is the denial of access to biodiversity in the name of conservation in countries with western designed and influenced conservation regimes which remains a root cause for further entrenching poverty and denying access to livelihoods. The traditional resource use patterns in most societies have been within the regenerating capacity of the resource base. Ironically, communities living next to biodiversity rich areas and ecosystems of great significance often find themselves as the poorest segments of their societies. This calls for a paradigm shift in securing rights for development at household, community, regional and national levels, and globally, taking into account gender dimensions. Conservation of biodiversity and ecosystems must ensure that poverty eradication is a core component of their intervention initiatives including benefit sharing of the economic gains that accrue from such conservation and restoration initiatives of biodiversity.

Proposals for COP11

Need to review the "Dehradun Recommendations" taking into consideration the discussions during the fourth meeting of the Working Group on Review of Implementation and the Rio+20 outcomes.

Parties at COP11 must:

- Reform legislative, policy and institutional regimes at the national level to build capacity to effectively pursue biodiversity related poverty reduction strategies and plans;
- Incorporate a biodiversity inclusive and fully participatory Strategic Environmental Assessment for all poverty eradication and development strategies, programmes, plans and policies including economic zoning of regions;
- Ensure that food, health, water, and livelihood security based on the conservation of biodiversity and the sustainable use of biological resources are promoted and sustained;
- Ensure institutionalized biodiversity integration into poverty eradication and development plans through inter alia mandatory collaboration of government agencies including ministries and local governments; UN agencies and bilateral agencies;
- Remove all perverse legal and economic incentives that encourage destructive private or public sector investments in biodiversity exploitation or other processes that damage biodiversity.
- Renew efforts to implement Article 10.c of the Convention that requires Parties to protect and encourage customary use of biological resources;
- Provide legal and policy measures to secure the territorial, land, natural resource, and water rights of Indigenous Peoples and local communities (IPLCs);
- Renew efforts to implement article 8(j) on traditional knowledge, innovations and practices;
- Enforce legally binding safeguards on protecting biodiversity and the rights and livelihoods of IPLCs, women (based on principles of good environmental governance such as precautionary principle, inter and intra generational justice, common heritage for humankind and common but differentiated responsibilities);
- Affirm that the right to free prior and informed consent of IPLCs, and the right to full and effective participation of all rightsholders and stakeholders including women, IPLCs, is upheld as a key principle in fostering the integration of biodiversity in poverty eradication and development plans/strategies;
- Provide effective and appropriate support, through legal recognition and legal, economic and cultural incentives, to Indigenous Peoples' and Local Communities' conserved territories (ICCAs) and areas as a sustainable livelihood strategy that fosters community governance and promotes food, wood, water and energy sovereignty in harmony with ecosystems.

Further information

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Inland Waters

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda item: 13.3

Related documents: UNEP/CBD/COP/11/INF/2, UNEP/CBD/SBSTTA/14/INF/3

Summary of issue

Inland waters (defined by the CBD to include aquatic-influenced environments located within land boundaries, in both fresh and saline waters) are put to varied direct and indirect uses. These waters are under immense stress due to pollution, diversion of water courses, changed land use patterns, and a lack of cooperation between actors (including departments/ governments) resulting in their rapid degradation, disruption of water cycles and associated biodiversity.

In the given scenario, the emphasis on the indepth review of the programme of work on inland waters biodiversity to look at both direct and indirect drivers influencing the water cycle and inland water biodiversity is commendable. Addressing such issues will not only enable the continuation of the water cycle and conservation of biodiversity but will also ensure water, food and livelihood security for millions. To achieve desired goals, the participation of Indigenous Peoples and local communities, including fishing communities, at every stage is crucial. As stakeholders whose livelihoods and wellbeing depend on inland waters biodiversity, their rights to inland waters and their traditional knowledge needs to be recognized and integrated into all aspects of this programme of work.

Recap and Recall

- Decision IV/4 of the Fourth Conference of Parties (COP4) to the CBD adopted inland waters as a CBD thematic area.
- Decision VII/4 encouraged parties, and relevant organizations to ensure opportunities for the active participation of indigenous and local communities in all stages of rapid assessments of biodiversity of inland waters traditionally occupied or used by these communities, consistent with decision VII/16 F of the Conference of the Parties on the Akwé: Kon Voluntary Guidelines.
- Decision VIII/10 called for an indepth review of the programme of work on inland waters biodiversity. This review resulted in Decision X/28 which called for reports on (i) an assessment of ways to address relevant inland water biodiversity needs in coastal areas; (ii) the status of the River Basin Initiative; (iii) the implications of changes in the water cycle, and freshwater resources in the implementation of all thematic and cross-cutting programmes of work; and (iv) progress with the expert group to provide key policy relevant messages on maintaining the ability of biodiversity to continue to support the water cycle.

- SBSTTA considered these topics at its fifteenth meeting, resulting in recommendation XV/5 (UNEP/CBD/COP/11/2). The recommendation requests an assessment of opportunities for enhanced collaboration with the Ramsar Convention on solutions to water problems, under the aegis of the joint work plan; and to prepare a summary report of the expert group on maintaining the ability of biodiversity to continue to support the water cycle. It suggests these be reported to the eleventh meeting of the COP.

What is at stake?

Dams, mining and logging activities, changing land use for agriculture, tourism, water for human consumption –both domestic use and for industries—and such have altered the water cycle. These activities also affect biodiversity in inland waters as they result in drying up of water bodies, increased pollution, and obstruction of migration and breeding of species. The impact of such human interventions on inland waters ecosystems is immense. At the same time, the impact on Indigenous Peoples and local communities whose lives and livelihoods are intertwined with inland waters and their biodiversity is equally high.

With millions of people dependent on inland water fisheries for a livelihood, fishing communities perhaps have one of the largest stakes stake in ensuring the health of inland waters and their biodiversity. It is important to ensure the participation of Indigenous Peoples and local communities, including fishing communities, in the conservation and sustainable use of inland waters biodiversity if long-term conservation goals are to be met and if the ability of biodiversity to continue to support the water cycle is to be maintained. This would require the integration of the traditional knowledge, practices and rights of the Indigenous Peoples and local communities.

Supporting Indigenous Peoples and local communities, particularly fishing communities, to sustainably manage inland waters, by strengthening cooperation on capacity-building and governance, promoting secure land and water tenure, and particularly by putting in place participatory decision-making processes and benefit sharing arrangements, is crucial to the conservation of inland water biodiversity and maintenance of the water cycle.

Parties at COP 11 must

- Recognize the traditional knowledge and practices of Indigenous Peoples and local communities, including fishing communities, on conservation and sustainable use of inland water biodiversity and ensure they are integrated into the implementation of the programme of work.
- Recognize the traditional rights of Indigenous Peoples and local communities to inland waters and their biodiversity; and ensure that they are, established, protected and promoted at all levels, especially in light of the indepth review on the Inland waters biodiversity programme of work to reinforce conservation efforts by expanding the protected area network in inland waters.
- Ensure water and livelihood security of Indigenous Peoples and local communities, including fishing communities dependent for livelihoods on inland waters, before water is diverted for other uses such as agriculture and industry.
- Assess the potential impact of development projects such as dams on the water cycle and on inland waters biodiversity as well as on Indigenous Peoples and local communities through rigorous EIA and SEA processes.

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Agricultural Biodiversity for Life: Providing food, improving health and well-being and regenerating the environment

COP 11, Hyderabad, India, 8th – 19th October 2012
Agenda items: 13.5 and relevant issues in related items 2,3,7,9-13

Summary of issue

The conservation and sustainable use of agricultural biodiversity is fundamental to realising the goals of the CBD. Sustaining agricultural biodiversity contributes to many thematic areas and to achieving a majority of the Aichi Biodiversity Targets. Implementing CBD Decisions that impact on agricultural biodiversity and related ecosystem functions is vital not only to underpin sustainable food provision but also to improve human and planetary health.

Agricultural biodiversity and associated ecosystem functions in all biomes is the result of the resilient, biodiverse, ecological food production systems developed by knowledgeable women and men who, at smaller scales, currently provide food for more than 70 per cent of the world's peoples. The dynamic selection, development and exchange of seeds and other planting materials, as well as livestock and other terrestrial and aquatic food species, *in situ*, have created the myriad agricultural biodiversity in local production systems that not only **feeds the world** but also **improves human health and well-being** and **sustains the environment**.

Recap and Recall

Agricultural biodiversity – its conservation, sustainable use and the equitable sharing of benefits from its use – has always been at the heart of the CBD's work on these issues, usually in cooperation with other institutions especially FAO. They are summarised in Decisions III/11 and its Annex 1, which provides the basis for the CBD's work on agricultural biodiversity, IV/6, V/5, VI/5 (+ VI/6 on the International Seed Treaty), VII/3, VIII/23, IX/1 and X/34. These decisions reiterated the importance of *in situ* and on-farm conservation and sustaining the ecosystem functions provided by agricultural biodiversity, recognise the central role of small-scale food providers and the need to defend Farmers' Rights. Other agreements also impact directly on agricultural biodiversity e.g. the Biosafety Protocol on the transboundary movement of LMOs, most of which are of direct concern to food and agriculture, and agreements to prevent the negative impacts of restrictive monopoly privileges, biofuels, perverse incentives, GURTs (especially a moratorium on Terminator technologies, V-GURTs), geoengineering, synthetic biology etc. Agricultural biodiversity is also central to the issues covered by the CBD's decisions on Marine and Coastal biodiversity, Forests, Drylands and so on. Realising the goals of the CBD and a majority of the Aichi Targets thus requires revisiting all the CBD Decisions relevant to agricultural biodiversity and implementing the identified measures. It also requires Parties in other forums e.g. FAO to strengthen commitments to actions that will conserve and develop agricultural biodiversity.

What is at stake?

Biodiverse, ecological, food provision:

Effective measures on agricultural biodiversity will promote a model of production and consumption, that a) provides healthy, nutritionally-rich, local food and defends small-scale food providers and food sovereignty; b) helps sustain and develop agricultural biodiversity locally, *in situ*, on-farm, on the range and in productive waters; c) is supported by innovative research, which builds on the findings of IAASTD.

Climate Change:

Increasing agricultural biodiversity in local food systems will improve the adaptive capacity and resilience of production systems and can significantly reduce carbon emissions. However, the rapid deployment of inappropriate and inherently dangerous technologies, e.g. geoengineering, and monopoly practices, such as the patenting of 'climate ready' genes, undermine and restrict access to agricultural biodiversity, reducing the viability of local food systems.

Access to agricultural biodiversity:

Realising Farmers Rights / rights of livestock keepers, forest dwellers, artisanal fishers etc, and defining Traditional Knowledge related to agricultural biodiversity, will improve access to, control and use of agricultural biodiversity, and its component genetic resources for food and agriculture, by small-scale food providers. GURTs, GMOs, techno-fixes, 'valuations' and the misuse of traditional knowledge, that consolidate corporate control, will undermine agricultural biodiversity and facilitate its commodification.

Ecosystem functions:

Corporate control, monopoly privileges, commodification and financialization of agricultural biodiversity, which are embedded in the concepts of valuation and payment for ecosystems services, will marginalise small-scale food providers and undermine food sovereignty. Recognising the environmental, social value and the cross-cutting relevance of ecosystem functions related to agricultural biodiversity and increasing their effectiveness across all production systems will provide multiple social and environmental benefits. Strengthening these measures and ecosystem functions should therefore also be at the heart of IPBES, which should be fully transparent and should provide meaningful spaces for full participation of civil society and social movements in its deliberations and decision-making processes.

Proposals for COP 11

- **Reaffirm** the importance of agricultural biodiversity and the central role of small-scale food providers in its development and maintenance. The conservation and sustainable use of agricultural biodiversity are core issues in the CBD (Article 8j) and ITPGRFA (Articles 5, 6 and 9) and is the priority of the CGRFA. Farmers' Rights in the ITPGRFA and related measures require legally-binding compliance mechanisms to compel Parties to recognize, respect and ensure national implementation, in the same way that breeders' rights are enforced and protected internationally in UPOV, WTO, WIPO and TRIPS. CBD resolutions have requested studies on Farmers' Rights but nothing has yet been produced.
- **Resolve** to scale up commitments to implement the Decisions on the conservation and regeneration of agricultural biodiversity *in situ*, in local food production and harvesting systems. Commitment must be renewed to focus on *in situ* conservation and development of domesticated species by women and men small-scale food providers. While *ex situ* and protected area approaches may serve for the conservation of undomesticated species, domesticated biodiversity needs different approaches and governance. The CBD must recognize that the conservation, development and sustainable use of domesticated species will only take place through *in situ* measures. Parties must recognise findings in relevant assessments e.g. IAASTD and reinforce efforts to implement relevant plans of action of the CBD and FAO that prioritise *in situ* conservation of agricultural biodiversity.
- **Retain** important Decisions relevant to agricultural biodiversity, such as the moratorium on GURTs. COP must reject proposals to retire the paragraphs related to GURTs in Decision VII/3 as summarised in documents UNEP/CBD/COP/11/20 and UNEP/CBD/COP/11/INF/1.

GURTs undermine access to genetic resources and the ability to conserve and develop these resources *in situ*. Parties should therefore strengthen the moratorium on GURTs to include all technologies (including gene silencing technologies) that restrict access to agricultural biodiversity *in situ* and the re-use of seeds.

- **Regulate, transform or prohibit** any systems, methods, processes or technologies, which might damage agricultural biodiversity and related ecosystem functions. The CBD should evaluate intellectual property regimes and perverse incentives, and prohibit those that counter the CBD's goals and principles. The CBD should declare a ban or moratorium on the use of new plant varieties, especially GMOs and products of synthetic biology that have potential adverse impacts on agricultural biodiversity and the environment.
- **Renew** commitments to related Conventions and UN bodies, especially the FAO, that defend, develop and support the conservation and sustainable use of agricultural biodiversity. Agricultural Biodiversity and the protection and support for those who defend and develop it *in situ* must be central to the International Decade on Biodiversity. Further, Parties should call on the FAO to strengthen its work on the joint POW on Agricultural Biodiversity and the MYPOW of the CGRFA, especially the preparations for the State of the World's Biodiversity for Food and Agriculture.

Further information

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Biofuels, Bioenergy and the Technologies of the new Bioeconomy: Are we continuing to fuel Biodiversity Loss?

COP 11, Hyderabad, India, 8th – 19th October 2012

Agenda item: 13.8

Relevant Documents: UNEP/CBD/COP/11/3/item 11

Summary of issue

Industrial scale bioenergy, including biofuels and technologies that rely on biomass for production of chemicals, plastics and other industrial products (the “bioeconomy”) are dramatically expanding demand for wood, vegetable oils and agricultural products and residues.

This demand is already inflicting serious and irreversible impacts on biodiversity, soils and water resources and resulting in land grabs, undermining the rights of peasant farmers and indigenous peoples, and hampering efforts to achieve food sovereignty and agrarian reform.

The associated technologies, including genetically engineered trees and crops, synthetic microorganisms and cultivation of invasive species add further to the serious threats. The Convention should immediately act to protect biodiversity from what now ranks as a foremost threat to biodiversity.

Recap and Recall

Various negative impacts have been well documented in a mounting collection of reports including peer reviewed scientific studies, evidence reports from NGO’s, research reports from government advisory bodies, UN committees and numerous testimonials from communities suffering impacts.¹ Decision X/37: Biofuels and Biodiversity, adopted at COP10 contained two essential words: minimize or avoid the negative impacts of biofuel production. Some of those provisions are echoed in the text under consideration including provisions concerning synthetic biology.

The “positive impacts” of biofuels, referred to in the preamble of the draft decision, are increasingly difficult to ascertain. In the past months, severe drought has reduced the US corn crop dramatically resulting in a new sharp increase in food prices contributing to escalating global hunger as near 40% of US corn is used for ethanol. High crop prices have led to over 23 million acres of biodiverse grasslands, shrublands and wetlands in the US being converted since 2008.² Biofuels have been identified as the main cause of land-grabs, which are being resisted by farmers from the Philippines to Mozambique to Honduras. Biofuel land-grabs cause the displacement of large numbers of small farmers, Indigenous Peoples and other communities as well as large-scale biodiversity (and agro-biodiversity) destruction.

1 The CBD Secretariat’s report for SBSTTA 16 acknowledged many of these direct and indirect impacts as well as the failure of biofuels to reduce greenhouse gas emissions in many or perhaps even most cases.

2 http://static.ewg.org/pdf/plowed_under.pdf

3 Wise et al, Implications of Limiting CO2 Concentrations for Land Use and Energy. Science 324, 1183 (2009)

What is at stake?

The new bioeconomy: Reducing biodiversity to biomass:

The assumption has been made that massive quantities of biomass are readily and “sustainably” available, without careful consideration of the consequences. Demand for land and water to grow biomass feedstock is resulting in the expansion of industrial agriculture, increased pressure on forests to supply wood chips and pellets, depletion and contamination of soils and waterways and deliberate spread of invasive species. Some models indicate the potential for *most remaining natural ecosystems to be converted to monoculture energy crops* to meet growing demand.³

Industrial bioenergy competes with food production, worsens hunger and contributes to “land grabs”:

As confirmed by the High-Level Panel of Experts on Food Security and Nutrition, demand for biofuels is responsible for most of the recent global growth in the demand for cereals and oilseeds and thus for food price rises and volatility, so increasing hunger. Impacts on food security and sovereignty are complex, often indirect in global markets. According to a report published by the International Land Coalition, two thirds of land ‘transactions’ involving as much as 203 million hectares worldwide (particularly in Africa) were for biofuels. It is often claimed that large areas of “marginal, abandoned and degraded” lands are “available”, but in reality many of these lands are inhabited by economically and politically marginalized peoples and communities. Violent conflicts are increasingly common. The push to develop biofuels from algae and seaweed poses a threat to coastal communities and biodiversity, fisherfolks and pastoralists (should plans to grow microalgae in deserts and semi-deserts go ahead).

Technologies associated with the “bioeconomy” are risky and poorly regulated and a precautionary approach to them is essential.

Development and cultivation of genetically engineered trees, algae and crops as well as the advancement of synthetic biology to create organisms capable of converting plant biomass into fuels and industrial chemicals, all are technologies associated with development of biofuels and present serious risks. Many species cultivated for bioenergy, such as miscanthus and jatropha, are hardy, stress tolerant invasives poised to invade wherever they may be introduced. Commercial development of algal biofuels has so far been unsuccessful, largely due to inherent constraints in maximizing algal growth and oil yields simultaneously². Commercial development therefore focuses on genetically engineered algae. Given the swift rate of growth, dispersal and reproduction of algae, the ability of some algae to produce toxins and algal blooms, a comprehensive scientific assessment of the potential environmental impacts of genetically engineered algae is essential.

Industrial bioenergy will accelerate, not mitigate climate change:

It is increasingly recognised that biofuels actually increase emissions, especially when the indirect impacts are included. This contradicts claims that biofuels can make a “potential positive contribution to mitigating climate change”.

Standards are no match for subsidies:

The recommendation from SBSTTA rightfully acknowledges that incentive measures - including mandates, targets and subsidies - are significant drivers of biofuels expansion (and hence biodiversity loss). Yet the recommendation “invites further evaluation”, use of “voluntary tools” and advises further monitoring, research and evaluation. Existing standards and certification processes have been ineffective in addressing direct or indirect impacts, most of which are quantity rather than quality-related, (that is, the problems largely stem from large scale of demand). Standards and certification schemes are, per definition, not able to address the drivers of bioenergy expansion, namely targets, mandates and subsidies, especially in Europe and North America, which must be eliminated.

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Parties at COP 11 must:

- Apply the precautionary principle and take a strong position countering expansion of industrial biofuels in light of mounting evidence of harms and sparse evidence of benefits. Biofuels can never meet more than a small portion of overall energy demand, at enormous cost to ecosystems, climate and human rights.
- Acknowledge that standards and certification criteria are, per definition, not able to address the negative impacts of biofuels in light of mandates and targets. There is no need for further evaluation.
- Classify all biofuel subsidies, targets and incentive measures as “perverse incentives” and work to eliminate them.
- Reject dangerous technologies associated with the bioeconomy, including GE trees, algae and crops bioenergy with carbon capture and storage, biochar, cultivation of invasive species and development of synthetic biology technologies and synthetic organisms.
- Invite more civil society responses, including from Indigenous Peoples, and local communities.
- Reaffirm that biodiversity and ecosystems resilience and restoration takes priority over satisfying energy demands.

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Synthetic Biology as a New and Emerging Issue for the CBD

COP-11, Hyderabad, India 8th October – 19th October 2012

Related documents: UNEP/CBD/COP/11/3/XVI/12, UNEP/CBD/SBSTTA/16/13

Summary of issue

Synthetic biology, described as ‘extreme genetic engineering,’ refers broadly to the use of computer-assisted, biological engineering to design and construct new synthetic biological parts, devices and systems, and to redesign existing biological organisms. Synthetic biology differs from “conventional” genetic engineering in its technique, scale, and its use of novel and synthetic genetic sequences – raising new risks to biodiversity.

Synthetic biology is a nascent but rapidly growing field, worth over \$1.6 billion in annual sales. Many of the world’s largest energy, chemical, forestry, pharmaceutical, food and agribusiness corporations are investing in synthetic biology R&D or establishing joint ventures. A handful of products derived from synthetic biology have already reached the commercial market and many others are in pre-commercial stages.

Despite synthetic biology’s rapid growth, its potential environmental and social impacts have not been assessed, nor are there national or international regulations to help ensure synthetic biology and its products do not harm biodiversity and livelihoods. Notably, national biosafety regulations, the Cartagena Protocol on Biosafety, and the Nagoya Protocol on Access and Benefit Sharing do not explicitly cover synthetic organisms, their products, or synthetic biology processes and technologies.

Recap and Recall

The issue was first addressed by the CBD at SBSTTA 14 in Nairobi in the draft decisions on “Agriculture and Biodiversity” (Recommendation XIV/10) and “New and Emerging Issues” (Recommendation XIV/16).

Decision X/13 of COP-10 on new and emerging issues invited Parties, other Governments and relevant organizations to submit to SBSTTA information on synthetic biology and its possible impacts on biodiversity and livelihoods, and Decision X/37 on “Biofuels and Biodiversity” extended that invitation to include relevant information on synthetic biology for biofuels production (para. 17).

The main decision on synthetic biology at COP-10 (Decision X/37, para. 16) *urged* Parties and other governments to “apply the precautionary approach in accordance with the Preamble to the Convention, and the Cartagena Protocol, to the introduction and use of living modified organisms for the production of biofuels as well as to the field release of synthetic life, cell, or genome into the environment, acknowledging the entitlement of Parties, in accordance with domestic legislation, to suspend the release of synthetic life, cell, or genome into the environment.”

What is at stake?

Environmental release of synthetic organisms:

While it is already difficult to assess the safety of single transgenic organisms, synthetic biology raises the level of complexity enormously. There has been no scientific effort to thoroughly assess the environmental or health safety of synthetic organisms, which can have tens or hundreds of entirely novel genetic sequences. Its techniques can create thousands of novel organisms at once. Most of the organisms being engineered through synthetic biology (algae, yeast, *E. coli*, viruses) naturally and regularly swap genes, and so genetic contamination from escaped organisms should be expected. Synthetic organisms could also displace wild organisms, interfere with existing ecosystems, become a new class of invasive species, or directly introduce toxins into the environment.

Increased demand for biomass:

Industry groups argue that widespread application of synthetic biology will enable a new “bioeconomy,” in which products previously made from fossil petroleum will be fermented by engineered microbes feeding on living biomass. Synthetic biologists want to turn microbes into “living chemical factories” that can be engineered to produce substances they would not produce naturally, such as biofuels. These microbial production processes depend on industrial-scale supplies of feedstocks, including sugars derived from agricultural and forest biomass. Increased demand for biomass to feed synthetic microbes for a new bioeconomy could have enormous impacts on biodiversity and the livelihood and food security of local and indigenous communities.

Natural product replacement:

Synthetic biology companies are now partnering with the world's largest flavour and fragrance, cosmetics, food ingredients and pharmaceutical companies to get engineered microbes to produce compounds naturally found in plants. Products already in development include flavourings such as vanilla, liquorice and saffron, sweeteners such as stevia, oils such as jojoba, and strategic materials such as tyre rubber and medicines. Commercial applications of synthetic biology's designer organisms have the potential to de-stabilize traditional commodity markets, disrupt trade, displace workers, and eliminate jobs.

Proposals for COP 11

Three options, each in square brackets, on how to best address synthetic biology as a new and emerging issue are provided by SBSTTA-16 for consideration by Parties at COP11:

Option 1: *Decides* not to add any new and emerging issues (including synthetic biology) to SBSTTA's agenda;

Option 2: *Requests* that the Executive Secretary to compile and synthesize information on the possible impacts of synthetic biology on biodiversity (including social, economic, and cultural considerations), as well as possible gaps and overlaps with other provisions of the Convention, its Protocols, and other relevant agreements to be made available for review by SBSTTA, and invites Parties and other relevant stakeholders to submit additional information;

Option 3: *Invites* Parties, other Governments, and other relevant stakeholders, including indigenous and local communities, to submit further information to be synthesized by the Executive Secretariat, peer-reviewed, and provided to SBSTTA for further review.

Proposed de facto moratorium:

Another bracketed proposal would establish a de-facto moratorium on the environmental release and commercial use of synthetic biology until there is an adequate scientific basis on which to justify such activities and due consideration is given to the associated risks for biological diversity, including socio-economic risks and risks to the environment, human health, food security, livelihoods, culture and traditional knowledge, practices and innovations.

Issues with Decision IX/29 on identifying new and emerging issues:

Some objections to synthetic biology as a new and emerging issue are primarily based on Decision IX/29 adopted at COP9, which prescribes the set of criteria that needs to be fulfilled before any issue can be accepted as a new and emerging issue.

At SBSTTA-14 and COP10, several delegations raised serious concerns on the potential of Decision IX/29 to limit the capacity of SBSTTA to respond to urgent issues and threats to biodiversity that arise, thus undermine the operationalization of the precautionary approach which is a fundamental principle of the CBD. Procedural arguments should neither stop nor delay the CBD from decisively dealing with the new threats posed to biodiversity, such as in the case of synthetic biology.

Parties at COP11 must:

- **Adopt a moratorium on the environmental release and commercial use of synthetic biology** because we lack an adequate scientific basis to justify their use and release or to assess associated risks for biodiversity, socio-economic risks, culture and traditional knowledge, practices and innovations.
- **Support option 2 from SBSTTA-16 Recommendation XVI/12**, which would provide Parties with the most relevant information when considering risks posed by synthetic biology and would consult local and indigenous communities, civil society, and others relevant parties.
- Request the Parties to the Cartagena Protocol on Biosafety to extend agreements to synthetic biology to cover gaps that otherwise permit evasion of the Protocol's rules on the physical transfer of LMOs, such as digital importation of DNA sequences or importation of genetic "parts" ready to be reconstituted.
- Request the Parties to the Nagoya Protocol on Access and Benefit Sharing to extend agreements to cover digital genetic sequences and products of synthetic biology technologies.

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The International Civil Society Working Group on Synthetic Biology submission to SBSTTA on the Potential Impacts of Synthetic Biology on the Conservation and Sustainable Use of Biodiversity: www.cbd.int/doc/emerging-issues/Int-Civil-Soc-WG-Synthetic-Biology-2011-013-en.pdf

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