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SUBMISSIONS: Welcome from all civil society groups. Email to jdempsey@cbdalliance.org

Welcome Ministers!

An Assessment of Progress from Civil Society

To orient Ministers to COP 10, the CBD Alliance has assembled a guide to the key issues, and outlines the status in relation to civil society's key demands (to review these, please see the TOP 10 for COP 10 and the civil society statement, both available at www.cbdalliance.org). We identify the 'Helpers' – those who are moving the issues forward progressively, and we identify the 'Blockers' – those who are dragging their heels.

*The outcome of COP 10 lies in a delicate balance between the ABS protocol, Financial Resources and the Strategic Plan. 'Developed' countries must make good on their Rio promises. Only then can we talk seriously about strong ecological and conservation targets. We do hope Ministers will remember their obligations from 18 years ago, and take seriously that this is agreement is about global ecological **and** social justice.*

Issue	Status	Helpers	Blockers
The Access and Benefit Sharing Protocol	Deep conflict of interest is evident. Business as usual will mean biopiracy as usual. "It's about justice, stupid!"	All developing countries, Africa Group, GRULAC, Like Minded Group of Asia Pacific (excluding Korea, Japan, Australia, NZ) Norway	EU, especially Germany, Canada, silent but major actor the United States
Finance, economic instruments and biodiversity	Not much progress yet, most conversations outside of earshot (in Friends of Chair)	Bolivia for raising issue of safeguards and criteria for any innovative financial mechanisms	Unclear if the North will commit to clear targets to INCREASE public funds. Stay tuned on Wednesday!
Strategic Plan	Brackets proliferate. All hangs in balance between ABS and Resource Mobilization (as <i>critical</i> targets on ABS, Financial Resources and TK not yet discussed)	Switzerland, Norway, Brazil, Costa Rica, Colombia, Philippines (for insisting on equity in protected areas targets)	Some developing countries (particularly China and Malaysia) are concerned about their ability to meet strong protected area targets, due to lack of financial resources and different situations between North ("developed") and South ("developing"). Hoping the deadlock breaks soon...
Geoengineering	Satisfactory	Philippines, Jamaica, Africa, Bolivia	N/A, we hope it continues this way
Climate change & Biodiversity	Poor. Parties seem to be facilitating REDD+ more than protecting <i>biodiversity</i> and safeguarding for human and Indigenous rights	No champions (yet). We hope some Parties will take a stronger stance on this (i.e. Norway, EU)	Most appear to be accommodating UNFCCC. China, Brazil, South Africa, Australia do not like the word "biodiversity safeguards" and with Canada they are also uncomfortable with rights of indigenous peoples.
Biofuels	Slow and unpromising (full of hot air)	Swiss, Philippines, Africa Group	Brazil, Canada, Columbia, EU, New Zealand
Synthetic Biology	Very unsatisfactory (further study at SBSTTA, will we all be eaten by little microbes at COP 11?)	Philippines, Africa Group	Brazil, Canada both deeply negative actors, along with Australia and New Zealand

Assessment, continued

Issue	Status	Helpers	Blockers
Ocean Fertilization	Maintained and appear to be updating Ocean Fertilization moratorium	All Parties Ok (so far)	N/A
Forests	Badly. Forests still include plantations, apparently.	Kenya (for raising the forest definition issue), maybe Norway (see blockers)	Australia, EU. Civil Society Organizations unsure about the role played by Norway: we wished they had pushed the forest definition issue, but have faith that they will produce in other international arenas
Marine and Coastal Biodiversity	Very Slowly. Legal and jurisdictional arguments making themselves known (to the detriment of biodiversity). Decent work on including equity and Indigenous and human rights.	EU, South Africa, Fiji, Palau, Fiji, Grenada	Let's move on - especially Argentina and Mexico! Yes there is too much focus on areas beyond national jurisdiction, which is only one element of the Programme of Work. But we need to move!

The three Rio Conventions: Real Synergies or dominance by the Climate Convention?

Helena Paul, EcoNexus

References to potential synergies between the three Rio conventions are to be found scattered through the texts under discussion, notably in agenda item 5.6 Biodiversity and Climate Change. There are calls for these synergies to be consolidated and strengthened in the run-up to the Rio+20 celebrations in Brazil in 2012. At the CBD COP here in Nagoya as well as at the Climate COP in Cancun, we have the 'Rio Conventions Ecosystems and Climate Change Pavilion.'

However, we must be extremely vigilant. There are serious and well-founded concerns about the impacts this might have in practice. The Climate Convention is bigger, more powerful with many governments and better funded than the CBD. It could easily dominate any attempt at synergies between the three Rio conventions.

In addition, the Climate Convention's Kyoto Protocol had a market approach built into it from the beginning, with emissions trading and the clean development mechanism (CDM). The attraction of markets is powerful. There are already many forces intent on applying this approach in the CBD.

But the commodification of biodiversity for offset markets or a possible green development mechanism would mean the fragmentation of biodiversity. Zoning exercises that divide ecosystems into, for example, Resource Use Zones, General Use Zones, National Park Zones and Nature Sanctuaries are already underway. Companies could offer funding to support National Park Zones in exchange for access its resources.

This is a critical danger of biodiversity offsets. We know that biodiversity is already being fragmented, for example in the forest mosaic approach, which is based on the idea of high biodiversity areas being protected while companies exploit areas zoned for plantations of different kinds. We need to protect biodiversity from fragmentation - not increase it.

Biodiversity protection needs to be coherent with the functions of ecosystems.

Another danger inherent in any coming together of the conventions is the focus on technologies projected to provide a quick fix for climate change. While the impacts of geoengineering technologies are unknown, advocates are saying we do not have the "luxury" of delaying to investigate further because we must act now. This is a very dangerous path and the CBD should strongly apply the precautionary principle to cool down the ardour of the technological optimists, whose message to governments are simple and seductive: if we fix the climate then you will not have to make the painful decisions to reduce consumption and energy use.

Such arguments must be resisted. However, at this COP it is hard to escape the conclusion that in some discussions, for example on biodiversity and climate change, the CBD is being streamlined to be coherent with the climate convention. The latter makes no mention of biodiversity; it only speaks of ecosystem services. Now this terminology is creeping – no galloping - into the CBD. But the use of the term ecosystem services as opposed to ecosystem functions opens up the way to trading in these services. International trading in biodiversity is more likely to help traders than boost biodiversity conservation.

There are serious concerns about the coming together of conventions for Indigenous Peoples, who have a special place in the CBD, but certainly not in the dominant Climate Convention.

There is great sensitivity being expressed here in Nagoya about the need to avoid pre-empting decisions to be made in Cancun, at the next phase of the UNFCCC negotiations. However, it seems as though Parties are bowing to the capital-endowed climate process (particularly the tantalizing REDD prospects), when it is precisely *the opposite* that should happen.

Reminder to EU: Listen to your own Parliamentarians

As we listen to the EU delegation stall and block the ABS negotiations we wonder if they had paid any attention at all to the call of their own parliamentarians. We reproduce below extracts from the “European Parliament resolution of 7 October 2010 on the EU strategic objectives for the 10th Meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD), to be held in Nagoya (Japan) from 18 to 29 October 2010”.

The European Parliament,

- having regard to the 10th Meeting of the Conference of the Parties (COP 10) to the UN Convention on Biological Diversity (CBD), to be held in Nagoya (Japan) from 18 to 29 October 2010,
- having regard to the Reports of the Ninth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing and the draft ABS Protocol (the Cali and Montreal Annexes),

B. whereas the United Nations Year of Biodiversity should offer the political momentum to strengthen implementation of all three objectives of the CBD: conservation of biodiversity, sustainable use of biodiversity, and fair and equitable sharing of the benefits arising from the use of genetic resources,

Urgency to act

3. Is alarmed over the steady increase in the illegal use of genetic resources and widespread biopiracy occurring on a global scale;

Access to genetic resources and benefit sharing (ABS)

16. Notes that, without a successful conclusion of negotiations on the international ABS regime at COP 10 resulting in a Protocol to the CBD with legally binding and non-binding provisions, a wider agreement on the Post-2010 Strategic Plan of the Convention may not be achieved;

17. Reconfirms the principle that life forms and living processes must not be subject to patents; underlines, therefore, the need to maintain a 'breeders' exemption' in accordance with the UPOV Convention;

18. Emphasises that the ABS Protocol must provide for transparency, legal certainty and predictability as regards access to genetic resources, and fair and equitable sharing of the benefits arising from the utilisation of genetic resources, their derivatives and traditional knowledge associated with genetic resources;

19. Calls on the Commission and Member States to support the inclusion in the Protocol of the principle of free, prior and informed consent of indigenous and local communities regarding access to traditional knowledge associated with genetic resources;

20. Recognises that traditional knowledge associated with genetic resources is relevant to the conservation and sustainable use of biodiversity as well as for the fair and equitable sharing of the benefits arising from the utilisation of genetic resources and therefore needs to be adequately addressed in the ABS Protocol, in line with the UN Declaration on the Rights of Indigenous Peoples;

21. Calls therefore upon the Commission and the Council to accept the Cali draft text on benefit-sharing arising from publicly available traditional knowledge, on benefit-sharing from the use of derivatives of genetic resources, on the monitoring, tracking and reporting the utilisation of genetic resources as well as the provisions on mutually agreed terms between users and providers of genetic resources;

22. Acknowledges the interdependence of countries with regard to genetic resources for food and agriculture and their importance for worldwide food security and therefore the need to take into account these genetic resources in the negotiations on the international ABS regime;

23. Recognises the differences in views regarding the retroactive application of future ABS protocol and urges the Parties to find practicable and fair solutions in order to accommodate legitimate concerns;

Integrating biodiversity into development policy

35. Recalls that 80% of the people in the world rely on traditional, plant-based medicine, and that biodiversity can help alleviate the national costs of providing medical supplies in many developing countries, since it offers the necessary basis for traditional medicines and many synthetic drugs; urges COP-10, therefore, to take steps to counter biopiracy; underlines that protection of biodiversity is directly linked to the achievement of Millennium Development Goal (MDG) 6;

World Wetland Network Wetland Globe Awards

The World Wetland Network (WWN) is a support network for NGOs working on wetland issues, and has been running since 2008. The World Wetland Globes are a series of awards that recognise and encourage best practice in wetland management. They are supported by the Fundacion Biodiversidad, and consist of a Blue Award for best practice in wetland management, a Green Award for best practice in wetland restoration, and a Grey Award for Wetlands under threat.

Voting took place from July to September 2010, via a purpose built website. NGOs were encouraged to take part via regional WWN networks. Around 500 wetland NGOs registered, and cast over 400 votes for 133 wetlands.

Find out the winners (and not-so winners) at www.worldwetnet.org

Will we share the big part?

Christine von Weizsäcker (Ecoropa) and François Meienberg (Berne Declaration)

One of the central unresolved issues in the ABS Protocol negotiations is that of genetic resources held *ex-situ*. It is obvious that a major part of genetic resources has already been taken from the countries of origin during the past 400 years, with an accelerated rate of acquisitions in the recent past. They are now being kept in botanical gardens and research institutions, but also by genetic resource broker companies, companies for outsourced access, genomics companies and even commodities on the shelves of supermarkets. The question remains: Will we really share the benefits arising out of the utilization of these resources or create wide gaps and loopholes for past and ongoing biopiracy? The text of the Convention is clear on this: Each contracting party shall take measures with the aim of sharing the results of research and development and benefits arising from the commercial and other utilization of genetic resources *There is no temporal limit in the Convention that restricts the obligation to share benefits of genetic resources.*

Now we hear from industrialized countries: the new ABS Protocol should only require the sharing of benefits for the utilization of genetic resources which were acquired *after* the entry into force of the Protocol and after a country became a Party. This silently implies that everything else is then declared legitimate. This indicates a lack of political will to share the biggest part of the benefits. Users have many non-compliance routes: they examine *ex-situ* collections in their own country; they will get it from the huge collections of the big Non-Party; they will check if the resource is available in the “open” market. The Nestlé-Rooibos case is a recent example of the latter type of biopiracy. If a user has illegally accessed a genetic resource in a country of origin, he will easily be able to

pretend that he legally found it *ex-situ* or got it before the time the Protocol came into force or from areas outside national jurisdiction.

Botanical Gardens show that it is possible.

Botanical Gardens working together in the International Plant Exchange Network (IPEN), have agreed to use a material transfer agreement which includes the following para:

“By signing this Agreement the recipients commit themselves to act in compliance with the CBD and its agreed provisions on Access and Benefit-Sharing. This includes a new Prior Informed Consent (PIC) of the country of origin for any uses not covered by terms under which it has been acquired (such as commercialisation).”

The International Treaty (ITPGRFA) also does not differentiate between genetic resources accessed by CGIAR-Centers (or other seed banks) before or after the coming into force of the CBD. These examples show that it is crucial and possible to include all accessions held *ex-situ* into future benefit-sharing agreements – irrespective of whether they have been accessed before or after the coming into force of the CBD or the Protocol.

It’s a no-go.

A Protocol which would share nothing but the benefits for Genetic Resources and Traditional Knowledge acquired after its entry into force is not acceptable and will be counterproductive in practice. It would be a “CBD minus” Protocol regarding scope. And it would implicitly and explicitly legitimize past, ongoing and future acts of biopiracy.

Should sustainable use be prioritized over protected areas?

Emmanuel Freudenthal, Forest Peoples Programme

One of the only successes touted by the CBD is the increase in protected areas. But at the same time, all the other indicators point to an increase in biodiversity loss. Anyone who has either common sense or a PhD in statistics will realize that this means that protected areas, as currently designed and implemented, have not effectively stemmed global biodiversity loss.

Apparently this is not obvious to parties to the CBD as they have called (again) for increased funding for more protected areas. Wealthy countries have replied by attempting to outdo each other in announcing increased funds for protected areas (e.g. \$120 million around LifeWeb, €1 million by the EU etc.), while poorer countries advertise their unique biodiversity in a bid to attract funds.

Increasing the land coverage of protected areas appears to be one of the few concrete consensus at the COP. It is probably the easiest way for Parties to be seen to achieve some progress. Unfortunately, this does not address the drivers of biodiversity loss: our predatory production and consumption systems and the governance of resources at a wider scale. Protected areas

only set aside bits of biodiverse nature while allowing business as usual in the rest of the land- and sea-scapes. As such, they are a diversion from the systemic changes that are needed.

What biodiversity needs is a change in the way we use resources and the increased devolvement of the management of resources to indigenous peoples and local communities. Harding’s tragedy of the commons has been debunked and we (now) know that it only applies to very specific cases.

The CBD should move away from IUCN categories I and II and realize that empowering local actors to sustainably manage resources at a very local level is usually the best - and cheapest - way of protecting them, as called for by the Ecosystem Approach and the Addis Ababa Guidelines for the Sustainable Use of Biological Resources.

Rather than squabbling over financial resources, we should focus on better use of existing funds through changes in the current strategies, policies and programmes, which have failed us so far.