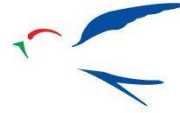




Italian Presidency
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SYNTHETIC REPORT

of

**ABS informal EU Expert Meeting
Advancing together on Nagoya Protocol implementation
and preparing the COP/MOP1 (13-17 Pyeongchang)
Rome, 4-5 September 2014
Ministry of Foreign Affairs - Rome**

Introduction

The ABS Expert Meeting was held on the 4th and 5th September 2014 in Rome. The first day dealt with an informative and explicative set of presentations and discussions on the key topics related to the implementation of the Nagoya Protocol within the European Union and the Member States. The second day was dedicated to update and discuss the position of the Commission and the EU Member States regarding several critical items of the COP/MOP 1 Agenda. Representatives of the EU Commission, of the Member States, of governmental and non-governmental organizations, stakeholders and research institutes attended and participated to the Expert Meeting.

Day 1 - Exchange of views on Nagoya Protocol implementation in the EU (EU MS)

Anna Maria Maggiore (Chair of the ABS Expert Meeting - Italian EU Presidency) opened the first day of works: she welcomed and thanked the participants, introduced the agenda of the 2 days meeting and the objectives of the meeting. Her opening statement was followed by the greetings and updates on contributions by the EU Commission. The EU Commission also stressed on the importance to have stakeholders and relevant organizations, such as WIPO and the FAO, involved in this kind of events for a successful implementation of the Protocol. The speech of **Renato Grimaldi** (Director General for Nature & Sea Protection) welcomed the participants and thanked the Institutions involved in the organization of the ABS meeting, recalled the recent entry into force of the Nagoya Protocol. Grimaldi also stressed the importance to preserve the diversity of genetic resources both as a source of innovation and an important element for the Green Economy. For these reasons, he invited all institutions, local administrations, organizations and relevant stakeholders to cooperate in exchanging information and experiences on genetic resources' management and protection.

The first session of the first day was dedicated to explore existing instruments, guidelines, codes of conduct and tools addressing the implementation of the NP within the EU. Presentations of the experiences were done by major International Organizations, EU research institutes and EU stakeholders closely involved in the ABS process, with the aim of exploring the link between these experiences and the Nagoya Protocol.

Christopher H. C. Lyal (CETAF) presented the CETAF Code of Conduct and Best Practice for ABS. The Code of Conduct developed by CETAF covers: policies, data management / curation, staff training, fieldwork, utilization, utilization by third parties, benefit-sharing, disposal of collections. This example of practice aims to support EU Member States to comply with the NP and the EU regulation on ABS (the draft package is available on line: <http://www.cbd.int/abs/submissions/icnp-3/EU-Taxonomic-practices.pdf>).

Gerd Winter (Research Center for European Environmental Law, Faculty of Law, **University of Bremen**), focused on points to be considered for ABS Agreements and presented the Model Agreement of the EU funded MicroB3 Project (a research project on Marine Microbial Biodiversity, Bioinformatics, Biotechnology led by the Max Planck Institute for Marine Microbiology Bremen). Winter also highlighted some sceptical points, namely the possibility that access agreements aiming to control the entire R&D process might have counterproductive effects (the MicroB3 model agreement accessible at <http://www.microb3.eu/news/commentary-micro-b3-abs-model-agreement>).

Michael Kiehn (University of Vienna) for the **IPEN Task Force**, presented the International Plant Exchange Network (IPEN) and its relationship with the Nagoya Protocol. IPEN has been developed by the Association of Botanic Gardens of the German speaking countries and is based on a “Code of Conduct” securing accord with CBD/NP rules, as well as other regulations (e.g. CITES). IPEN serves for the exchange of plant material within botanic gardens and for non-commercial purposes only, but can be used as basis for commercialization.

A general open discussion followed these three presentations. The following critical points emerged: the lack of a universal definition of genetic resource and the need to clarify what do we mean by genetic resource; problematic related to data management and availability; conditions concerning commercial use and non commercial use.

In the second session, International Organization presented their experiences with ABS instruments, codes of conducts and relevant tools.

Dan Leskien (FAO) made an update on the state of play of the ongoing activities under the CGRFA/FAO related to the implementation of access and benefit-sharing for different subsectors of genetic resources for food and agriculture.

Dafne Zografos Johansson (WIPO) introduced the intellectual property implications related to the NP and presented a general overview of the ongoing debates on the subject, selecting some specific elements (e.g. patent office/checkpoints, WIPO draft guidelines, disclosure of information) which could be considered for the NP implementation.

The second part of the day was entirely dedicated to an ABS MSs experts roundtable discussing the NP ratification and implementation processes carried out by EU MS at national level. This session aimed at sharing different experiences from MSs that have already ratified the Protocol, those along the way towards ratification and MSs currently approaching the process. Denmark, Hungary, France, Poland, Sweden and The Netherlands presented their experiences. A rich discussion followed the presentations and the majority of MS and organizations present at the afternoon session actively contributed to the debate.

Day 2 - Preparing the CBD COP/MOP1 Pyeongchang

The day two was restricted to the Governments and focused on COP/MOP1 agenda preparation in view of the finalization of the EU position. Before addressing in depth each of the items, the Presidency focused the attention on the organizational matters with the scope to assess the presence of the Member States’ representatives and experts to the COP/MOP 1 Pyeongchang (High-Level Meeting included).

After this, a particular attention was given to the “**Compliance procedure and mechanisms**” issue under art. 30 of the NP (item 10). A very participated and debated session followed the points introduced, as well as the scenarios and options to be considered. The debate has been enriched by the stimulating contributions of many Member States experts and was focused on ICNP3 open questions remaining in brackets for COP/MOP1: Institutional mechanism (participation of ILC representatives in the Committee

and decision-making by qualified majority); Functions of the committee (compliance of Parties “with the Protocol”); Procedures (triggers - involvement of ILCs and the Secretariat and Committee's power to reject submissions); Measures to promote compliance and address cases of non-compliance (cases of grave or repeated non-compliance); Ombudsman (to provide assistance to developing countries and ILC).

Thanks to the presence of all the members of the Compliance drafting group, it was possible to organize a separate meeting, to work directly on the documents and position paper, taking into account, further discussing and processing all the elements and inputs presented in the open discussion. This session was very fruitful: due to time constraints, the paper could not be defined during the Expert Meeting, nevertheless the drafting group is finalizing an improved version of the paper by September 8th.

After the most debated session about the Compliance mechanism, the meeting focused on the “**Model contractual clauses**” issue under articles 19 and 20 of the NP (Item 11). The debate stressed the EU position about the following points: a possible reference to the process under FAO/CGRFA and the submission of tools to the ABS CH.

Other key issues faced at the ICNP-3 item sessions, as “capacity-building” (Item 17), “clearing house” platform (Item 8), “Monitoring and reporting” (Item 9) and “Global Multilateral Benefits-Sharing mechanism” (Item 19) have been discussed in order to carry on an effective check about the state of the art of the Protocol as well as the draft decisions proposed for adoption to the COP/MOP 1. In addition, with the aim to coordinate the forthcoming works to be carried out in COP and in COP/MOP1, two relevant and delicate cross-cutting issues, such as “Synthetic biology” and “Article 8(j)”, were also discussed.

Finally, before addressing the final remarks, the Presidency highlighted the importance to join an EU position about the possible opening of a compliance contact group since the very first days of the COP12. Since it is a delicate political issue, the participants agreed at re-discussing it at WPIEI, under the aegis of the Commission.

Participants included: EU Presidency, EU Commission, Austria, Belgium, Czech Republic, Croatia, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Sweden, United Kingdom.

During the first day were present representatives of FAO, WIPO, EBGCI, CETAF, University of Bremen (Micro B3 project), WWF International, MIRRI.