

**SCENARIO NOTE FROM THE CO-CHAIRS FOR THE NINTH MEETING OF THE AD  
HOC OPEN-ENDED WORKING GROUP ON ACCESS AND BENEFIT-SHARING  
(WGABS-9)**

***A. Introduction***

1. As in the lead up to previous Working Group meetings, we have been approached by several Working Group members who have asked us what to expect in terms of workflow at the ninth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing.
2. We are pleased to share with you below our expectations for this meeting and our emerging plans to help to ensure the Group meets these expectations. This is consistent with our commitment made at the outset of our tenure to transparency, openness, predictability and responsiveness.
3. This note is based on consultations with Parties, regions and groups, indigenous and local communities, and stakeholders in recent days and over many months. It is based on our clear understanding of the Group's strong desire to meet its commitment to the Conference of the Parties (COP) to produce the final draft text here in Cali in order to prepare for its adoption at COP10 in Nagoya, Japan.
4. We draw your attention to the following documents which can be usefully read in conjunction with this note: Decision IX/12 of the Conference of the Parties and the provisional agenda and the annotations thereto for the present meeting (UNEP/CBD/WG-ABS/9/1 and Add1).

***B. Aim***

4. At WGABS-9 the Working Group is charged by COP Decision IX/12 with the "consolidation of all operational text developed at the seventh and eighth meetings of the Working Group."
5. Given the negotiations are aiming at finalizing a protocol text in time for its possible adoption at COP10, Working Group members must be alert to the fact that, in effect, we have seven days left to finalize a clear, credible and explainable draft text.

***C. Context***

6. Decision IX/12 prescribes the following: (i) at the seventh meeting, the negotiation of operational text on the objective, scope, compliance, fair and equitable benefit-sharing, access; (ii) at the eighth meeting, the negotiation of operational text on nature, traditional knowledge associated with genetic resources, capacity-building, compliance, fair and equitable benefit-sharing, access; (iii) and, at the ninth meeting, the consolidation of all operational text developed at the seventh and eighth meetings.

***D. Considerations***

7. You will recall that the eighth meeting of the Working Group made a major step forward in producing a single shared draft of the main components of the international regime. Nevertheless, it is clear from our discussions with Working Group members that while it is critical to maintain the integrity of the "Montreal Annex", in practical terms it will be difficult to work from such an extensive and heavily bracketed text, given only seven days of formal negotiations are left.

### ***E. Informal Documentation***

8. Reflecting on the above realities and following constructive discussions in the Co-Chairs Informal Inter-regional Consultation (CIIC), 16-18 March, regional representatives requested the Co-Chairs undertake to draft a streamlined text of a draft protocol as a means to expedite the negotiations without prejudice to the Montreal annex and the prerogatives of the Working Group. The Co-Chairs agreed to this request and the following has been circulated as a response: *Non Paper by the Co-Chairs of the Working Group on ABS: Draft Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity*.

9. Given this is the last meeting of the Working Group before COP10 a draft decision will need to be prepared for consideration at COP. This is more than a mere formality, for this decision will serve as the vehicle to deliver the emerging draft protocol for adoption and therefore must include consideration of a crucial interim work plan for the post-adoption pre-entry into force phase. Consequently, we have produced the following: *Non-Paper by the Co-Chairs of the Working Group on ABS: Draft COP-10 Decision on Adoption of the Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity*.

10. As many of you are aware, a policy guidance paper was prepared by the Co-Chairs as a basis for discussion at the CIIC. Reflecting on these discussions, a revised guidance paper has been produced to serve as an informal aid in the negotiations (see: *Revised Co-Chairs' Guidance Note*).

### ***F. Approach to the ninth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing***

11. Following opening formalities and assuming that the Working Group agrees to negotiate on the basis of the Co-Chairs draft protocol non paper, it is our intention to begin in plenary by asking Working Group members to identify key issues of concern in the draft, while maintaining a holistic view of the document. Following this initial "issues identification process", we will move discussions to contact groups, as needed, for further targeted discussions. These contact groups will be charged with developing understanding of problematic points, resolving specific problems and finding text that reflects these solutions.

12. In turn, such textual solutions will be taken up in plenary and subsequently placed into the current streamlined draft (replacing relevant existing text). Eventually, we envision a new revised draft protocol emerging. Only fundamental unresolved issues will merit the judicious use of square brackets. We will be working to ensure that the quality of the current text actually improves through this exercise and that new text is advised to only be added where strictly necessary. This will be a transparent and inclusive process, with the success of the workplan residing with the Working Group members and the Parties' responsibility and prerogative to negotiate text and determine final outcomes.

### ***G. Other Issues for the ninth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing***

13. In addition to negotiations of the draft protocol and associated draft COP10 decision, the Working Group is advised to briefly consider as per its mandate ABS indicators in the context of

the Convention's Strategic Plan. Further, and, in the broader framework of the overall COP10 decisions, to informally consider how to improve synergies between ABS and other relevant CBD work programmes and thematic areas.

#### ***H. Organization of work***

14. Working Group members continue to have a strong desire to work in plenary to the greatest extent possible. As per above, there is, however, a general recognition of the possible need for informal contact groups and other possible groups given the volume of work before the Group, the detailed nature of the text negotiations and the increasing time pressures.

15. Decisions on the formation of contact groups and the appointment of co-chairs will be made in plenary. As in previous Working Group meetings, we will limit the number of concurrent contact group sessions to two. Again as per past practice, short plenary sessions at the end of most days are envisioned -- given the need for contact group co-chairs to provide the whole group with updates on progress and for consideration of any possible evening sessions. Contact group co-chairs will be confirmed in plenary, as will their mandates in order to avoid confusion and counter-productive debate.

16. The Secretariat has advised us that interpretation in all six official United Nations languages will be available for a total of six hours per day. It is our intention to prioritize the use of interpretation for plenary and for initial discussions of key problematic issues.

17. We have been approached by a number of delegations regarding possible night sessions. Given that there are only seven days of formal negotiations remaining, delegations are advised to prepare for early evening sessions of contact groups. Nevertheless, we believe that the most efficient hours to negotiate are during the day.

#### ***I. Results of the ninth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing***

18. The following outputs are envisioned at the end of WGABS-9:

- i. WGABS-9 formal meeting report;
- ii. Annex 1: "The Cali Annex" (i.e., the final draft Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity);
- iii. Annex 2: Draft COP-10 Decision on Adoption of the Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity.

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Ad Hoc Open-ended Working Group on Access and Benefit-sharing

21 March 2010

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