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**Key issues for the upcoming Biodiversity and
Biosafety meetings in May 2008
(Bonn, Germany)**

Note

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LIST OF KEY ACRONYMS

Ac Hoc Working Group on protected areas	WGPA
Access and benefits sharing	ABS
Ad hoc Technical Expert Group	AHTEG
Conference of Parties	COP
Convention on Biological Diversity	CBD
Ecosystem approach	EA
Invasive alien species	IAS
Living modified organism	LMO
Living modified organisms for food, feed, or processing	LMO-FFP
Marine protected area	MPA
Meeting of the Parties to the Cartagena Protocol on Biosafety	COP-MOP
Millennium Development Goals	MDGs
National biodiversity strategies and action plans	NBSAP
Non-governmental organisation	NGO
Programme of work	PoW
Programme of work on protected areas	PoWPA
Protected areas	PA
Subsidiary Body on Scientific, Technical and Technological Advice	SBSTTA
UN Convention to Combat Desertification	UNCCD
UN Framework Convention on Climate Change	UNFCCC
Working Group on Review of Implementation	WGRI

EXECUTIVE SUMMARY

The ninth meeting of CBD COP (COP9) and the fourth meeting of COP-MOP (COP-MOP4) will be held on 19-30 and 12-16 May 2008, subsequently. The meetings will take place in Bonn, Germany. In the COP9 in-depth discussions are to take place, for example, regarding the CBD Programmes of Work (PoW) on agricultural and forest biodiversity, Invasive Alien Species (IAS) and the ecosystem approach. In addition, issues such as Protected Areas (PA), Access and Benefits Sharing (ABS) and biodiversity and climate change are foreseen to play an important role in the discussions. In addition, the COP meeting will again review the progress in the CBD implementation, including reaching the 2010 Biodiversity target to significantly reduce rate of the global loss of biodiversity, and success in supporting the 2015 Millennium Development Goals (MDGs).

As regards the COP-MOP4, the meeting agenda includes issues such as Living Modified Organism (LMO) risk assessment and management, liability and redress, and handling, transport, packaging and identification of LMOs.

This briefing aims to give a short insight into a number of key issues likely to emerge at both events. Additionally, it provides a short summary on the main issues discussed in the previous COP and COP-MOP meetings in 2006 in Curitiba, Brazil. Finally some recommendations for specific issues the EU could consider addressing in the COP9 discussions are outlined. These include, for example

- focusing on identifying and establishing ways and mechanisms to improve the cooperation and between the CBD, UNFCCC and UNCCD in issues of mutual synergies / importance;
- clearly establishing how new emerging and potentially politically sensitive issues should be effectively dealt with in the CBD context. In this context, reflecting the possible impacts of the new suggested EU commitments related to the use of renewable energies on biodiversity;
- establishing ways to improve the process reviewing the CBD implementation, e.g. national level reporting, to better establish the success and failures in the Convention's implementation, including the review of the CBD Strategic Plan beyond 2010;
- where appropriate, establishing and/or maintaining linkages between the development of the upcoming EU IAS strategy and the CBD, e.g. seeking issues of high mutual interest;
- at the global level, further promoting the development of functional ecological networks and the integration of protected areas into broader land- and seascapes;
- further advancing the application of ecosystem approach as a tool for sustainable management of land- and seascapes, including improving the holistic management of protected areas and ecological networks;
- enhancing the improvement of the scientific knowledge base supporting the CBD decision making.

1 INTRODUCTION

The Convention on Biological Diversity (CBD), negotiated under the auspices of the United Nations Environment Programme (UNEP) and currently consisting of 190 Parties, was adopted on 22 May 1992 and entered into force on 29 December 1993. The CBD aims to promote “*the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources*” (Article 1).

The Conference of Parties (COP) is the governing body of the CBD that advances implementation of the Convention through the decisions it takes at its periodic meetings. To date the COP has held 8 ordinary meetings and taken a total of 216 procedural and substantive decisions. The work of COP is supported by the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) that aims to provide the COP and, when appropriate, its other subsidiary bodies, with timely advice relating to the implementation of the Convention.

The CBD COP also serves as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP). The COP-MOP is the governing party that reviews the implementation of the Biosafety Protocol and makes decisions necessary to promote its effective implementation. Up till now the COP-MOP has held three ordinary meetings and taken a total of 46 decisions.

The ninth meeting of CBD COP (COP9) and the fourth meeting of COP-MOP (COP-MOP4) will be held on 19-30 and 12-16 May 2008, subsequently. The meetings will take place in Bonn, Germany. In the COP9 in-depth discussions are to take place, for example, regarding the CBD Programmes of Work (PoW) on agricultural and forest biodiversity, Invasive Alien Species (IAS) and the ecosystem approach. In addition, issues such as Protected Areas (PA), Access and Benefits Sharing (ABS) and biodiversity and climate change are foreseen to play an important role in the discussions. In addition, the COP meeting will again review the progress in the CBD implementation, including reaching the 2010 Biodiversity target to significantly reduce rate of the global loss of biodiversity, and success in supporting the 2015 Millennium Development Goals (MDGs). As regards the COP-MOP4, the meeting agenda includes issues such as Living Modified Organism (LMO) risk assessment and management, liability and redress, and handling, transport, packaging and identification of LMOs.

This briefing aims to give a short insight into a number of key issues likely to emerge at both events. This includes a number of CBD areas of work scheduled for in-depth consideration in the COP9. In addition, a number of thematic areas not scheduled for in-depth review but likely to gain significant level of attention in the meeting are being addressed.

Additionally, it provides a short summary on the main issues discussed in the previous COP and COP-MOP meetings in 2006 in Curitiba, Brazil.

2 KEY DECISIONS TAKEN IN THE 2006 COP AND COP/MOP MEETING

The in-depth issues discussed in the CBD COP8 included, in particular, the PoWs on island biodiversity, dry and sub-humid lands, Article 8 (j) on traditional knowledge, innovations and practices, and ABS. In addition, the marine protected areas formed one of the main topics of the discussion. Despite of altogether 36 decisions adopted it was considered that COP8 failed to make a lot of substantive progress. However, it was agreed that the COP8 procedural decisions were necessary to pave way for the upcoming negotiations on difficult issues such as an international regime on ABS and redefining the CBD role in relation to high seas PAs. Additionally, quantitative targets were established for the monitoring of the CBD implementation and the achievement of the CBD 2010 target.

In terms of substantive achievements, the adoption of the new **island biodiversity** work programme (Decision VIII/1) was considered as a success, particularly by the Small Island Developing States (SIDS). This new PoW outlines a set of actions addressing characteristics and problems that are specific to islands. In the context of **agricultural biodiversity**, the COP8 decision (Decision VIII/23) to reaffirm the COP5 ban on field testing of genetic use restriction technologies (GURTs) and reject case-by-case risk assessments was celebrated by many countries, NGOs and indigenous representatives.

As regards **Access and Benefits Sharing (ABS)**, the current discussions under the CBD have aimed at elaborating and negotiating an international regime on ABS. The COP8 discussions focused mainly on process and the decision made identified future steps with regard to the negotiation of the foreseen international regime (Decision VIII/4). This was somewhat disappointing considering that a number of countries, including Brazil and G77/China, had been keen to make substantive progress in this particular topic area. Finally, a timeline for ABS negotiations to be finalised by COP10 in 2010 was agreed upon. This timeline completed the otherwise open-ended target on ABS set by the World Summit on Sustainable Development (WSSD). Furthermore, a request to governments to support compliance with prior informed consent and a related request to the ABS Working Group to further consider such compliance measures were welcomed by developing countries (See section 3.4 for more detailed information and background on ABS).

In the context of **Marine Protected Areas (MPAs)**, the discussions in COP8 sought to redefine the Convention's role in relation to high seas PAs, particularly in relation to the UN Convention on the Law Of the Sea (UNCLOS) (Decision VIII/21). As an outcome, COP8 managed to draw the scientific and technical boundaries of the CBD work on high seas MPAs for the time being, e.g. focusing on the conservation and sustainable use of deep sea genetic resources. The Decision was based on the expectation that the UN General Assembly will start a follow-up process on deep sea biodiversity and tackle destructive fishing practices. If action by the General Assembly would be considered insufficient in two years' time, the EU managed the keep the door open for reconsideration of the CBD role in the high seas at COP9.

Finally, the COP8 discussed the **CBD implementation** (Decision VIII/8). It was concluded that the progress in implementing the CBD Strategic Plan had been slow. It was also recognised that in several countries the national biodiversity strategies and action plans, crucial for the implementation of the Convention, were still under elaboration or in need to be updated.

As for the future, the in-depth review of the implementation of goals 2 and 3 of the Strategic Plan¹, focusing on the consideration of barriers to CBD implementation and consolidating guidance for national biodiversity strategies and action plans, was agreed to take place in COP9. This review would then be used to support three specific future activities including 1) recommending priority areas for capacity-building and access to / transfer of technology and technology cooperation in relation to implementation of the Convention, 2) developing voluntary guidance to Parties to assist in overcoming barriers to implementation of national biodiversity strategies and action plans, and 3) providing inputs to the process of revising the Strategic Plan beyond 2010. Also, it was decided that COP9 should consider the process for revising and updating the Strategic Plan with a view to adopting a revised Plan in COP10.

Additionally, in order to improve the monitoring of the CBD implementation and achievement of the 2010 target a set of quantitative goals were established (Decision VIII/15). This was considered as an important improvement giving more prominence to the Convention's monitoring framework, as well as in mainstreaming quantitative targets in all thematic Programmes of Work of the Convention.

As regards the COP-MOP3, reaching agreement on detailed documentation requirements for Living Modified Organisms for Food, Feed, or Processing (**LMO-FFPs**), as specified in Article 18.2(a), was undoubtedly the core focus of the meeting.

The past negotiations on this issue have strongly focused on the voluntary vs. binding nature of the LMO-FFP rules, e.g. whether shipments and packaging should state that they "contain" or "may contain" LMOs. The main concern of exporting countries has been that labelling of any shipment that might include LMO-FFPs as containing LMOs might interfere with trade in several ways. On the other hand, importing countries have feared that too general and indistinct documentation requirements would possibly increase confusion, hinder approval procedures for shipments and shift the burden of proof from the exporting to the importing country.

An agreement on a compromise package, known as the "Curitiba Rules," on LMO-FFPs was reached in COP-MOP3. This package requests that parties take measures to ensure that documentation accompanying LMO-FFPs in commercial production clearly states that the shipment contains LMO-FFPs in cases where the identity of the LMO is known through means such as identity preservation systems. The Curitiba Rules still allow that, in cases where the identity of the LMO is not known through such measures, documentation states the shipment may contain one or more LMO-FFPs, and acknowledges that the expression "may contain" does not require a listing of LMOs of species other than those that constitute the shipment. The Rules also provide for reviewing experience gained with these documentation requirements at COP/MOP-5, with a view to considering a decision at COP/MOP-6 to phase out "may contain" documentation. Since parties decided that future COP/MOPs will now be held every two years, this implies that "may contain" language will be allowed until 2012. Finally, the Rules also include special provisions for capacity building, especially relating to using and developing simple, rapid, reliable and cost-effective sampling and detection techniques for LMOs.

¹ CBD Strategic Plan Goal 2: Parties have improved financial, human, scientific, technical, and technological capacity to implement the Convention; CBD Strategic Plan Goal 3: National biodiversity strategies and action plans and the integration of biodiversity concerns into relevant sectors serve as an effective framework for the implementation of the objectives of the Convention.

3 KEYS ISSUES FOR THE UPCOMING CBD COP9 IN MAY

3.1 CBD programmes of work on agricultural and forest biodiversity

PoWs on agricultural and forest biodiversity are on the COP9 agenda for in-depth discussion. The related recommendations suggested to be considered in the Bonn meeting were discussed and developed in the 13th meeting of SBSTTA in Rome on 18-22 February 2008.

As regards the future implementation of PoW on agricultural biodiversity the SBSTTA concluded that further research on monitoring and assessing the interlinkages, positive relationships in particular, between agricultural activities and the protection and sustainable use of biodiversity should be promoted. In this context, SBSTTA also agreed to invite FAO and other relevant bodies and stakeholders to compile and disseminate information on these impacts of agriculture on biodiversity, including information on agricultural practices, policies and best practices. Similarly, support to promoting and removing constraints to on-farm conservation and in-situ conservation of agricultural biodiversity was considered of high importance. Finally, gathering of information and lessons learned about agricultural biodiversity and climate changes, including ways and means to build resilience into agricultural livelihood systems as part of strategies for climate change adaptation, was supported.

Regarding forest biodiversity, SBSTTA agreed that there was an urgent need to strengthen implementation of the CBD PoW through sustainable forest management and implementation of the ecosystem approach. The integral role and effective participation of indigenous and local communities in the PoW implementation and the need for increased support for developing countries was also equally recognised. Promoting ecological area networks and ecological connectivity were also put forward to COP9 and increasing research on integrating aspects of forest biodiversity into climate change adaptation strategies was supported.

On the contrary to above, several issues on agricultural and forest biodiversity still remained unsolved. For example, the delegates failed to reach common ground on recommendations related to the impacts of perverse agricultural incentives, especially related to measures that distort international trade on the biodiversity of other countries, and to providing information on the ecological footprint of agriculture. As regards forest biodiversity, no agreement was reached on recommended actions to prevent illegal and unauthorized harvesting of timber and forest products. In this context, Brazil in particular consistently maintained its opposition to the term “illegal logging” which it considered not to be internationally prescribed and, with China, considered that logging and related trade should be addressed at the national level. This of course considered as a draw back by the EU that wished to promote the implementation of its Action Plan for Forest Law Enforcement, Governance and Trade (FLEGT). Similarly, despite of wide support for further research and the application of precautionary approach no common position was established regarding potential risks related to the use of genetically-modified trees.

Not surprisingly, issues related to biofuels dominated the SBSTTA discussions on both agricultural and forest biodiversity. These discussions reconfirmed the divergence of views between European countries and biofuel producers, e.g. Brazil. In this context the EU called for guidelines to minimize potential negative impacts of biofuel production and consumption and policy frameworks to ensure the sustainable production and consumption of bioenergy. European countries also supported specific references to be made to full life-cycle assessments of biofuels and their climate-change related impacts and mechanisms for sustainable biofuel production.

Biofuel producers, on the other hand, requested deletion of any references to action on biofuels going beyond the collection and dissemination of information. The producer countries also repeatedly noted that climate change and biofuel issues are already addressed in other fora, i.e. in the context of UN Framework Convention on Climate Change (UNFCCC). As a result, the SBSTTA recommendations related to climate change and agricultural and forest biodiversity remain to be re-discussed in and resolved by COP9.

Finally, the biofuels dominated debates led a number of countries to criticise the narrowness of discussions on agriculture and forest biodiversity and note that important items such as governance, illegal logging, non-wood forest products, forest conversion, valuation of ecosystem services, did not receive sufficient attention.

3.2 CBD programme of work on protected areas

As regards the CBD programme of work on protected areas (PoWPA), the Ad Hoc Working Group on protected areas (WGPA) held its second meeting in Rome on 11-15 February 2008. The aim of the WGPA was to pave the way for the COP9 by adopting a number of recommendations to be considered in the Bonn meeting. Thus, the WGPA outcomes serve as a good indicator for the discussions on PAs foreseen to take place in May.

One of the WGPA's main tasks was to review implementation of PoWPA. It was concluded that notable progress in the implementation of PoWPA had been made at national level regarding the designation of national focal points, improvements in PA management and finalising ecological gap analyses to identify potential PA sites. Similarly, nearly all reporting countries indicated collaboration with neighbouring countries in establishing transboundary protected areas and regional networks, as well as cross-boundary management agreements. Additionally, the European and some other countries also reported progress in attempts to integrate PAs into the wider management of land- and seascapes.

However, while a common agreement was established regarding the implementation state-of-play, the CBD Parties remained unable to reach a consensus in a number of issues including, for example, the participation of indigenous and local communities in PA management, sharing information on potential PA sites, promoting the development and importance of functional ecological networks, and integrating PAs into broader land- and seascapes.

For example, a number of countries (e.g. New Zealand, Canada and Argentina, opposed by the EU) requested deleting language stating that the participation of indigenous and local communities should be "in full respect of their rights and recognition of their responsibilities." The disagreement over the indigenous and local communities' level of participation led to heated discussions resulting finally in the withdrawal of Indigenous Peoples Committee on Conservation, International Indigenous Forum on Biodiversity (IIFB) from the Rome PoWPA meeting. The Parties eventually agreed on to recommend that the participation of indigenous and local communities should be consistent with national laws and international obligations. It was also stated that parties should give special attention to the implementation of a related programme element on governance, participation, equity and benefit-sharing.

Protection of national sovereignty versus establishing wider, integrated regional networks were the key arguments featuring in the debate on ecological networks and integrating PAs into broader land- and seascapes. In particular, Brazil and Argentina opposed strongly any reference to regional networks and cooperation. Consequently, reference to supporting the establishment of regional PA networks remains bracketed in the recommendations submitted to COP9. Similarly, Brazil (opposed by the EU) contested including a specific reference to spatial planning in integrating PAs into broader land- and seascape management.

After lengthy discussions, delegates agreed to recommend that integrated spatial planning to be used “as appropriate”.

Finally, the discussions on PAs were heavily dominated by conflicting opinions related to funding and financial mechanisms for PAs. Throughout the discussions developing countries emphasised the financial constraints of their PA systems undermining any attempts for effective monitoring, establishing legislative frameworks for PAs and improving technical capacity. To address this new and additional funding for PAs in line with donor countries’ commitment to assist developing countries in CBD implementation was called for. Developed countries, including the EU, argued that a sustainable financing strategy should draw on diverse sources of funding, including innovative mechanisms such as Payments for Ecosystem Services (PES), private-public partnerships, tourism revenues or payments for carbon sequestration and reduced deforestation. The failure to reach a common position on PA funding indicates the continuation of difficult discussions on the topic in Bonn in May.

Finally, PoWPA adopted two heavily bracketed recommendations for consideration by the COP9 on the review of implementation of the programme of work and on options for mobilizing financial resources for its implementation. Relevant concerns were voiced with regard to the likely impact of the extensively bracketed recommendations on delegates’ workload at COP9.

3.3 Climate change and biodiversity in the context of CBD

In addition to discussion on biofuels, issues related to biodiversity and climate change have been on the agenda in both SBSTTA meeting proceeding COP9, i.e. the 12th meeting of SBSTTA in Paris in June 2007 and in SBSTTA13 in Rome in February 2008.

In principle, the CBD delegates support further collaboration among the three Rio conventions (CBD, UNFCCC, UNCCD) on issues related to climate change, desertification and land degradation. However, the importance of synergies foremost at the national level and the need to respect the independent, legal status of each convention is emphasised by several Parties. In this context, a number of countries (e.g. Slovenia, Portugal, Finland, Czech Republic, Yemen) have called for an Ac Hoc Technical Expert Group (AHTEG) to be established with a mandate to provide advice on biodiversity relevant to the UNFCCC’s Bali Action Plan and Nairobi work programme on impacts, vulnerability and adaptation to climate change. This would be one step in dialogue between the CBD and the UNFCCC. Other delegates questioned whether an AHTEG would be the appropriate mechanism by which to inform these processes. Consequently, the process of clarifying ways of collaboration between the two conventions recognizing their different mandates remains unsolved and to be discussed in COP9 in Bonn.

Additionally, avoided deforestation as a tool supporting climate change mitigation has raised a lot of interest among the CBD Parties. A number of countries, e.g. Denmark, France, Belgium and the Bahamas, have supported recommendations encouraging cooperation with the UNFCCC to incorporate biodiversity protection measures in all efforts to combat deforestation, particularly in the context of the RED-DC (reducing deforestation in developing countries) process under UNFCCC. On a different note, Australia, Argentina and Brazil have highlighted that the differing mandates and jurisdictions of CBD and UNFCCC should be respected, indicating that importance of avoided deforestation in climate change mitigation should take place only in the context of the Climate Change Convention. Consequently, the recommendations to COP9 on this topic remain bracketed.

To conclude, there is, however, a relative wide consensus that the main challenge for the CBD is to make the UNFCCC more “biodiversity sensitive”. Consequently, the CBD and SBSTTA need to make a case that when environmental and social factors are considered, the least expensive means for achieving emission reductions are not necessarily the most appropriate. Increasing the prominence of biodiversity aspects within the context of climate change discussions is also seen important in order to keep biodiversity on the international agenda currently strongly dominated by climate change.

3.4 CBD programme of work on access to genetic resources and benefit-sharing

One of the three objectives of the CBD, as set out in Article 1, is the “fair and equitable sharing of the benefits arising out of the genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding”. At the 2002 World Summit on Sustainable Development (WSSD), the international community called for an international regime on ABS.

Consequently, since 2002 the discussions on ABS under CBD have focused on elaborating and negotiating an international regime on access to genetic resources and benefit-sharing with the aim of adopting an instrument or instruments to effectively implement the ABS related provisions of the Convention (i.e. Articles 15 and 8(j)). The Ad Hoc Open-ended Working Group on ABS, initially established by the COP5 in 2000, has been tasked to lead the negotiations with a view of reaching an agreement no later than 2010².

The Working Group on ABS has convened twice prior to COP9 to discuss the main issues related to the establishment of the envisaged international ABS regime, namely the nature, scope, objective and elements of such a regime (for further information see also Abu Amar and Kettunen, 2006). With a slow start in the fifth ABS WG in Montreal in 2007 the sixth meeting in January 2008 saw a much needed breakthrough in the negotiation of an international ABS regime. In the meeting a long awaited framework for further negotiation was adopted. This framework was supported by all negotiating parties and it also outlined the core elements for a future regime on access and benefit-sharing. It was widely acknowledged that this successful outcome was made possible by an innovative working method adopted by the ABS working group Co-Chairs that allowed the negotiating parties to develop trust in the process and in each other. This meant leaving the contentious discussion on nature and scope of the regime aside and focusing rather on the regime’s core elements.

Additionally, notable shifts in the positions of several parties and negotiating blocs could be observed. This included emerging position on issues such as an internationally recognized definition of misappropriation, capacity building, emphasis on the linkage between access and benefit-sharing, and the inclusion of components on traditional knowledge. Notably, for the first time since the launching of the process, no party questioned the general need for an international regime.

According to the outcomes of the sixth ABS working group, the ABS regime could include and build upon the following elements: supporting national legislation, developing standard contracts and model clauses and building negotiating, supporting monitoring and enforcement capacity. Supporting compliance with national laws on access and benefit-sharing, rather than developing a new system of international regulation, might become one of the regime’s primary objectives.

² The 2010 deadline was agreed in the COP8 in 2006

In addition, developing international minimum standards for access legislation should also be considered to provide guidance for the development of national legislation and as a fallback mechanism for countries that lack the capacity to develop and enforce such legislation. Developing standard material transfer agreements for ABS in specific sectors has also become increasingly accepted among the major negotiating groups. Additionally, the EU and other user countries have suggested developing standard clauses for national ABS legislation and mutually agreed terms in ABS contracts. Both of these ideas could become key tools for providing legal certainty and lowering transaction costs. Finally, increased attention being paid to addressing the need for enforcing the provider countries' capacity to negotiate and enforce ABS agreements and contracts. Together these three identified elements present a first impression of how ABS might be realized under the regime.

Despite of the success in the discussion on the possible elements of the ABD regime, the fundamental divergence between negotiating groups on nature, scope and objective still remains unsolved. More specifically, no common ground has yet been reached on whether the regime's objective should focus on benefit-sharing and preventing misappropriation (e.g. as called for by the Like-minded Megadiverse Countries, such as Brazil and China), or whether it should also include provisions on access to genetic resources (as proposed by the EU and other user countries). This illustrates that the CBD Parties have not yet identified their common interest in the regime, thus these discussion are likely to continue in COP9.

3.5 Other key issues for CBD COP9

The issues summarised above have formed the main focus of the discussion preceding COP9, e.g. SBSTTA13 and the related working group meetings. In addition, there are also a number of other thematic areas of work scheduled for in-depth discussion in Bonn that are worth noting.

As regards **invasive alien species (IAS)**, the previous discussions and work under CBD have focused on analysing gaps in the international framework for IAS. This gap-analysis has not been finalised and consequently the recommendation adopted by SBSTTA13 now seeks to address these gaps by inviting the World Organization for Animal Health (OIE) to consider whether it would need "to broaden its mandate" and recommending that the COP invite the FAO Committee on Fisheries to consider ways and means to address gaps on IAS for fisheries and aquaculture. In this context, addressing potential IAS not covered by existing bodies is foreseen as one of the CBD's future focuses. Additionally, improving IAS risk assessments is likely to gain increasing momentum, e.g. the SBSTTA has agreed to request collation of best practice examples for addressing risks associated with the introduction of alien species as pets, aquarium and terrarium species, and as live bait and live food.

The in-depth review of the application of the **ecosystem approach (EA)** is also to take place in Bonn in May. This issue, e.g. related recommendations for COP9, were discussed in SBSTTA12 in Paris in 2007. In general, the discussions on EA were held in a cooperative atmosphere. In these discussions the Parties agreed that the EA remains a useful framework for bringing together social, economic, cultural and environmental values, however the progress in its implementation was seen by many as somewhat unsatisfactory. It was also confirmed that no "one-size-fits-all" solutions for the EA application exists, thus flexible guidelines and further examples demonstrating the application of the approach at different scales and within different sectors was considered important. Additionally, raising awareness and promoting capacity building were considered of high importance for EA's future success.

3.6 Key issues to be discussed in COP-MOP4

The discussions in the COP-MOP4 of the Cartagena Biosafety Protocol are to focus on a number of issues, including Article 18 (on handling, transport, packaging and identification of LMOs), Articles 15 and 16 (risk assessment and management) and Article 27 (liability and redress).

In COP-MOP1 a process for elaborating international rules and procedures on liability and redress for damage resulting from transboundary movements of LMOs was launched with a view of finalising these negotiations by 2008 (i.e. by COP-MOP4). Consequently, liability and redress have formed one of the main focuses of the preparatory meetings preceding the meeting in Bonn in May. The Ad Hoc Open-ended Working Group (AHTEG) of Legal and Technical Experts on Liability and Redress met in February and October 2007 to discuss international rules and procedures on liability and redress as relevant in the context of Article 27 (the third and fourth meeting of the AHTEG).

The main difference in opinions between Cartagena Parties lays in whether Article 27 mandates the development a legally or non-legally binding regime. To address this divide the WG on liability and redress has been trying to develop a discussion document on the various options for an international regime, binding or non-legally binding, on liability and redress. This document is then envisaged to form the basis for future negotiations on the topic. The document, including Parties' positions on issues such as definition of damage and the primary compensation scheme, was finalised in the WG's meeting in October. Despite of this success, it is still considered that the discussions on the international liability and redress regime remain in a pre-negotiation stage. Thus, significant progress needs to be made in the fifth meeting of the AHTEG on 12-19 March to meet the deadline of completing the process in Bonn in May. Given the slow pace in negotiations a number of delegates wondered if negotiations can be completed by the end of COP-MOP4.

4 PROGRESS IN THE IMPLEMENTATION OF CBD

The COP8 agreed that the in-depth review of the implementation of goals 2 and 3 of the CBD Strategic Plan should take place in the COP9 meeting. To support and prepare for these discussions the Ad Hoc Open-ended Working Group on Review of Implementation had its second meeting in Paris in 2007 (WGRI2).

The review of the CBD implementation revealed significant obstacles to national implementation. Not surprisingly, inadequate resources and capacity were seen as the key obstacles for hindering the implementation in the developing countries. To address these caveats, the WGRI2 adopted five recommendations for COP9 on the further implementation of CBD. These addressed issues related to, for example, the implementation National Biodiversity Strategies and Action Plans (NBSAPs), capacity building and access to and transfer of technology and technology cooperation, options (e.g. a draft strategy) for resource mobilization, and opportunities for streamlining guidance on funding provided to the Global Environment Facility (GEF).

The review group emphasised that NBSAPs and equivalent instruments form key implementation tools of the Convention and, as a result, their practical implementation should be one of the main focal areas in the Convention's work. Thus, urging Parties to develop, implement and revise their NBSAPs was seen as one of the key recommendations for COP9. For example, many parties highlighted the need to update the national plans to reflect, among others, application of ecosystem approach, the 2010 biodiversity target, and climate change considerations. On this context, the insufficient financial, human and technical resources and the inadequate integration of biodiversity into relevant national policies (e.g. policies on sustainable development and initiatives supporting the 2015 MDGs) were considered as major concerns.

Additionally, highlighting the contribution of biodiversity to poverty eradication, national development and human wellbeing was seen as one of issues national biodiversity strategies and action plans should address. In this context, it was hoped that the third Global Biodiversity Outlook would also provide information on implementation of the biodiversity agenda within the MDG framework and, more generally, progress made in mainstreaming biodiversity into the development agenda.

In general, it was also acknowledged that the depth and level of detail of the current WGRI reviews does not allow detailed assessment on the successes and failures in the CBD implementation to take place. Similarly, it does not provide sufficient amount of information to suggest reforms within the CBD. However, the long-term efforts to improve the CBD implementation review still remain unclear. Many WGRI2 delegates agreed that the idea of institutionalising WGRI along the lines of the UNFCCC's Subsidiary Body on Implementation (SBI) alone would not provide sufficient support to the review process. In the short-term, it does seem that COP9 will continue WGRI meetings, thus the situation is therefore likely to remain unchanged until at least COP10. In the long run, if WGRI manages to take on more substantive reviews of implementation issues and suggest reforms within the CBD, it might enable SBSTTA to lead more scientific debates and provide much-needed response to reducing the rate of biodiversity loss.

5 CONCLUSIONS AND RECOMMENDATIONS

Despite of the advances in a number of thematic areas since COP8, such as the access and benefit sharing, ecosystem approach and invasive alien species, the lack of progress in SBSTA13 and WG on protected areas indicates that the COP9 is in for a series of difficult negotiations, particularly if it wishes to remove the brackets from around a significant number of recommendations.

Among other things, it can be foreseen that the main focus of discussions will be on issues related climate change and establishing clear and effective ways and mechanisms for the cooperation between the CBD and the UNFCCC. In addition, the links between biodiversity, climate change and desertification and land degradation, i.e. the UN Convention to Combat Desertification (UNCCD), should not be forgotten. This will not, however, be an easy task given the different timelines of the CBD and UNFCCC processes and the conflicting opinions between Parties on the role that CBD should play in climate change negotiations. Additionally, it is likely that the issues related to biofuels will continue to emerge in the context of different COP9 thematic discussions, in particular in discussions on agricultural and forest biodiversity. In this context, it is also important that the COP9 would address how new emerging, and potentially politically sensitive issues should be taken up by the CBD process in a timely manner.

As regards the COP-MOP4, it will be interesting to see whether the Parties of the Biosafety Protocol can agree on an international regime for liability and redress, i.e. what would happen if the transboundary movement of LMOs has caused damage, within the set 2008 deadline.

The main points of consideration, e.g. some recommendations, regarding the upcoming COP9 are outlined below. Additionally, some points are identified taking into consideration the current developments in the EU biodiversity and environmental policies in particular.

According to the brief analysis, based on the outcomes of SBSTTA12 and 13 and thematic Working Group meetings, the COP9 negotiations should *inter alia*:

- focus on identifying and establishing ways and mechanisms to improve the cooperation and between the CBD, UNFCCC and UNCCD in issues of mutual synergies / importance. Highlighting the importance of avoided deforestation in the context of mitigating climate change could be considered as a useful focal area to advance these discussions. Increasing the prominence of biodiversity aspects within the context of climate change discussions is also seen important in order to keep biodiversity on the international agenda currently strongly dominated by climate change negotiations;
- clearly establish how new emerging and potentially politically sensitive issues should be effectively dealt with in the CBD context. For example, discussions related to sustainable production of biofuels seem currently have major role in the discussions under the PoW on agricultural biodiversity, potentially hindering the progress in other relevant topics;
- establish ways to improve the process reviewing the CBD implementation, e.g. national level reporting, to better establish the success and failures in the Convention's implementation, including the review of CBD Strategic Plan beyond 2010. It has been generally agreed that the current review process lead by WGRI fails to provide the level of detail required for an exhaustive review. Establishing an effective monitoring system would also play an important role in delivering the CBD quantitative targets established in COP8.

In its turn, the EU could consider:

- in the context of climate change and biofuels, reflecting the possible impacts of the new suggested EU commitments related to the use of renewable energies (i.e. as in the climate and energy package proposed in January 2008) and the needs and possibilities to address these impacts in the context of CBD;
- where appropriate, establishing and/or maintaining linkages between the development of the upcoming EU IAS strategy and the CBD, e.g. seeking issues of high mutual interest. In particular, addressing the gaps within the international IAS framework though broadening the focus of relevant international bodies (e.g. IPPC and OIE) could be used to trigger important responses from a number of EU policy sectors relevant in the context of IAS, e.g. plant and animal health;
- at the global level, further promoting the development of functional ecological networks and the integration of protected areas into broader land- and seascapes;
- further advancing the application of ecosystem approach as a tool for sustainable management of land- and seascapes, including improving the holistic management of protected areas and ecological networks. In particular, further examples of the application of EA in practise could be supported;
- enhancing the improvement of the scientific knowledge base supporting the CBD decision making, e.g. the establishment of a permanent scientific experts panel for global biodiversity issues, similar to Intergovernmental Panel on Climate Change (IPCC). In this context, the future role of the International Mechanism of Scientific Expertise on Biodiversity initiative (IMOSEB) to the CBD process could be considered;
- clearly establishing how the outcomes of the EU-lead Global Review of the Economics of Biodiversity Loss (as initiated by the G8 Potsdam Initiative in 2007) can best support and be effectively utilised by the different processes and thematic areas within the CBD.

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