



**United Nations Environment Programme
Regional Office for Latin America and the Caribbean**

PROGRAMA DE LAS NACIONES UNIDAS PARA EL MEDIO AMBIENTE
PROGRAMME DES NATIONS UNIES POUR L'ENVIRONNEMENT

**Meeting of the Working Group on Genetic Resources of the
Forum of Ministers of the Environment of Latin America
and the Caribbean**

Paipa, Republic of Colombia

20 – 21 September 2007

Distribution:

Limited

UNEP/LAC-WGABS/1/3

REPORT

Original: Spanish

FINAL REPORT

I. Background

The Fifteenth Meeting of the Forum of Ministers of the Environment of Latin America and the Caribbean, (Caracas, Venezuela, 3-4 November 2005), adopted decisions and determined the priority action lines for the 2006-2007 period, as from the experiences developed relating to the implementation of the Latin American and Caribbean Initiative for Sustainable Development, ILAC.

One of the topics considered by the Fifteenth Meeting of the Forum, and included among the eight priority lines of the Regional Action Plan, was access to genetic resources and fair and equitable distribution of the benefits arising from their utilization. Similarly the Fifteenth Meeting of the Forum called to the establishment of a Working Group on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising from their Utilization, formed by Ecuador (coordinator), Bolivia, Brazil, Chile, Costa Rica, Cuba, Grenada, Guyana, Mexico, Nicaragua, Panama, Peru, Surinam and Venezuela, which mandate and priority issues on the subject matter were defined in Decision 8.

Among other things, in said Decision the creation of discussion opportunities for negotiations of the International regime, which take into consideration the need to develop a regime for the protection of traditional knowledge, with the support of the different agencies of the Inter-Agency Technical Committee (ITC), as well as the promotion of regional and sub-regional activities, including the development of meetings, workshops and other means directed to further analyze knowledge and exchanges on the access to genetic resources, benefit-sharing y traditional knowledge, in the identification of the priorities and demands of the region and in their better positioning in the negotiation of the International Regime.

Attending to this mandate, the Working Group on Access to Genetic Resources and Fair and Equitable Distribution of the Benefits Arising from their Utilization, met in Paipa, Colombia, on 20 - 21 September 2007, with the main purpose of covering the agenda items of the next meetings of the Ad-hoc Open ended Working Group on this issue established in the scope of the Convention on Biological Diversity, facilitating

information exchange, perspectives and points of view taking into consideration said international process.

Agenda Item 1: Opening of the meeting

The meeting began on Thursday, 20 September 2007 at 9:00, with the presence of representatives of the governments of Brazil, Chile, Colombia, Costa Rica, Cuba, Grenada, Ecuador, Mexico, Panama, Peru, Suriname, Venezuela, a representative from the Indigenous people and UNEP as the Secretariat (list of participants is attached hereto as Annex I).

The Working Group's coordinator Mr. Antonio Matamoros, representative of the Ministry of the Environment of the Republic of Ecuador, highlighted the presence of Mr. Fernando Casas, Co-chair of the Ad-hoc Open ended Working Group on ABS of the CBD, as well as the importance of this meeting in consideration of the upcoming multilateral negotiations.

Mrs. Maria del Pilar Pardo, representing the Ministry of the Environment, Housing and Territorial Development of the Republic of Colombia, in her capacity of host of the meeting, welcomed participants and highlighted the importance of having this opportunity for reflection and dialogue among the different members of this Group. The Regional Director of UNEP/ROLAC, Ricardo Sanchez Sosa, underscored the need for our countries to actively participate in these negotiations and for such effects it is decidedly relevant to have a body for dialogue and consultations at the level of the working group to which Colombia joins as the meeting's host, which can also submit recommendations for the next Forum of Ministers of the Environment of Latin America and the Caribbean. He also highlighted the importance of assuring permanent information exchange among group members, for which mechanisms for electronic dialogue may be established among others.

Agenda Item 2: Organization of the Work

2.1. Meeting Coordinator

It was resolved that the meeting be coordinated by Mr. Antonio Matamoros, and Mrs. Teresa Cruz, the Cuban delegate, was elected as *Rapporteur*, and she took the post with the support of the Colombian delegation.

2.2. Approval of the Agenda and Program of Sessions for the Meeting

Under this agenda item the members of the Group considered the Provisional Agenda (UNEP/LAC-WGABS/1/1) and the Annotated Provisional Agenda and its Calendar of Sessions (UNEP/LAC-WGABS/1/2), and it was adopted without modifications.

Agenda Item 3: Status of the Works done by the Ad-hoc Open-ended Working Group on Access to Genetic Resources and Benefit-Sharing of the Convention on Biological Diversity

As introduction to this agenda item, Mr. Ricardo Sanchez Sosa presented background on the creation of the Working Group of the Forum of Ministers of the Environment, going over the items from Decision 8 of the Fifteenth Meeting of the Forum held in Caracas in 2005. Mrs. Teresa Cruz presented the results of the Workshop held in Havana in 2005, which is an important backdrop for the works of the group. Mrs. Maria Luisa del Río Mispireta, representative of Peru, made a presentation on the Meeting of Technical Experts on Certificate of Origin/source/legal provenance held in Lima, in January 2007.

The co-chair del Ad-hoc Open-ended Working Group of the CBD presented a report of the background and a situation status of the works entrusted by Decisions VII/19 D and VIII/4 A of the Conference of the Parties to the Convention on Biological Diversity, making reference to the meetings and consultations held to date by the co-chairs of the group.

Agenda Item 4: Agenda of the Upcoming Meetings of the Ad-hoc Open-ended Working Group on Access and Benefit-Sharing of the CBD and Perspectives for the Upcoming Multilateral Negotiations.

4.1 Report of the Co-Chair Mr. Fernando Casas

For the discussion of this agenda item, the co-chair of the Ad-hoc Open-ended Working Group on ABS of the CBD was requested to make a general presentation of the Agendas of the Fifth and Sixth Meetings of said Group (UNEP/CBD/WG-ABS/5/1 y UNEP/CBD/WG-ABS/6/1).

The co-chair explained the rationality of the agendas of the meetings and specifically announced that since September 19th Document UNEP/CBD/WG-ABS/5/1/Add1/Rev1, has been made available and the same contains some positive changes in the agenda, such as the rearrangement of paragraph 2 of Decision VIII 4 A.

The participants reviewed vis-à-vis the original version of the document in English with its Spanish translation, detecting differences between both versions in certain parts of the text as well as in the numbering. The co-chair requested the assistance of the *Rapporteur* to accurately mark said differences, to advise the Secretariat of the Convention on Biological Diversity on this issue and request that the relevant adjustments be made.

Modifications were also made in the order of presentation of the documents, i.e., an important change is that the Annex to Decision VIII/4/A on the International Regime on Access and Benefit-Sharing, which previously had been handed-out as document 5/7, in the revised version is presented as document 5/2. Similarly documents from

previous meetings were included as reference documents.

In regards to the organization of the works (Annex II of the new annotated agenda), the co-chair announced his intention that the negotiations begin on the same morning of the opening of the meeting and not allow dilatory strategies, so that the time may be used to substantially advance.

It was emphasized that time assignment for the discussion of some agenda items was not clear, specifically on the issue of traditional knowledge, which did not have a time assigned; the co-chair took note of this mistake to request the Secretariat to make the relevant adjustments.

Similarly, many participants stated their concern for the manner in which the report of the meeting would be approved (item 6) so that the issues that would not be covered again in the ABS 6 (3.1, 3.2 y 4) be concluded, and not attempt to reopen this negotiation.

The co-chair clarified that a single negotiation text shall not be submitted, and the relevant parts of the Annex will serve as a base, as well as the relevant terms of reference of the Decision and the relevant inputs.

In this context, there is a possibility for the group to consider, which would be to advance in the negotiation of points of view to options, which shall not be attributed to the parties, based on the relevant items of Annex, pursuant to the pertinent terms of reference as well as the applicable inputs.

Different options were evaluated to adjust the organization of the Works, among these that of holding a Plenary at the end of Tuesday to adopt the report of items 3.1 and 3.2 passing from elements to options, and another on Thursday at the end of the day to once again review 3.1, 3.2, and 4, and an update on items 3.3, 3.4 and 3.5. Finally during the Plenary held on Friday, the final report on items 3.1, 3.2 and 4 would be adopted, a status on the advance of the issues that will be discussed in ABS 6.

4.2. Perspectives of the Indigenous Communities

In this item the floor was given to Mrs. Nury Yagari, member of the Indigenous Organization of Antioquia, and she made a presentation on the perspectives and the position of the indigenous communities of the region, which may be seen in Annex II.

4.3 and 4.4. Presentation and consultations on the issues of the Agenda of the Fifth and Sixth Meeting of the Ad-hoc Open-ended Working Group of the CBD and perspectives of the upcoming international multilateral negotiations.

These agenda items were worked together, since both meetings will work as one, therefore the coordinator invited the Group to carry out an analysis identifying relevant topics for negotiation.

Immediately participants focused on identifying core issues of future negotiations that may be covered more closely and in the course of in-depth discussions throughout the meetings.

Contributions and considerations of the participants shall be consolidated in a proposal to Group relevant issues in three areas:

- 1.- Basic elements of the regime,
- 2.- Compliance,
- 3.- Traditional knowledge in the framework of the negotiations of the regime,

The subtopics stated may be inquired in Annex III.

Furthermore, as other relevant topics placed outside the fifth and sixth meetings of the Open-ended Working Group of the CBD, the synergies of the regime with other agreements and International organizations (FAO, UPOV, WTO, WIPO, WHO, UNCLOS) were discussed in the framework of the national legislations and scientific research interests.

Agenda Item 5: Debate on the topics of the Agenda of the upcoming meetings of the Ad-hoc Open-ended Working Group on ABS of the CBD

In this item, Mr. Ricardo Torres Carrasco, member of the National Department of Planning of Colombia was invited to present the results of the Informal Dialogue on the International Regime on ABS, held in Beijing between 1st to 5th September (the presentation is attached as Annex IV).

The Regional Director of UNEP/ROLAC, Ricardo Sanchez Sosa, intervened as well by reminding participants that the document resulting from the Granada meeting meant an important advance for the interests of the developing countries and that achievement should not be forgotten in the positioning towards the upcoming negotiations.

There was consensus among Group members in that it is of the interest of the developing countries that the document "Annex to Decision VIII/4A on the International Regime on Access and Benefit Sharing" (UNEP/CBD/WG-ABS/5/2) constitutes the main text for negotiation. Therefore, they deem timely to inform this consensus to the Ministers of the Environment of the region, to promote the countries to maintain this criteria in the negotiations that will be carried out during future meetings of the Ad-hoc Open ended Working Group on ABS of the CBD.

Immediately, from the list of topics prepared and the inquiries made during the previous sessions, the participants expressed their point of view and discussed on the common elements, interests, concerns and national positions in the context of future multilateral negotiations.

In regards to the core of the International Regime, it was agreed that the focus should be the fair and equitable sharing of the benefits arising from the utilization of genetic

resources and constitute a legally binding International Regime which main purpose is to create the conditions for International compliance of national legislations on the topic.

Discussions continued evaluating aspects relating to the transfer of technology as part of the benefit-sharing, highlighting the need to retake the language of Article 16 of the CBD and search for an accurate definition of the “concessional and preferential” terms indicated in paragraph 2 of said article.

Regarding the compliance topic the value of the Certificate of Origin/source/ legal provenance / compliance was discussed as a control document that provides evidence of compliance with the national regime on access and benefit-sharing. This certificate may be a control instrument required by intellectual property rights procedures, as well as in import, export, product registry procedures, among others.

The importance of retaking the results of the Meeting of the Group of Experts held in Lima on January 2007 was highlighted. Some countries underscored the convenience of the certificate being simple, viable and low cost.

The importance of defining verification and control items was emphasized, for the terms of the access as well as for benefit-sharing and the need to establish a unique identifier as element of the certificate, which allows to follow-up to the different transformations that the genetic resource may have, furthering the debate on traceability.

The need for the countries to develop a national consultation process which allows identifying options for the implementation of the Certificate that are most convenient for negotiation, within those presented in Document (UNEP/CBD/WG-ABS/5/7), and some countries of the region stated their support for Option 1, which says “All provider countries required to provide a certificate and all user countries required to request a certificate.”

Another important aspect on the compliance issue is related to the disclosure of the country of origin as a requirement for intellectual property rights.

The importance of the definition of the genetic resources was evaluating, emphasizing the need to include their derivatives.

On the issue of traditional knowledge the need to retake the language of the Convention and expand the term to biological resources, without circumscribing to the use of genetic resources, having as a basis that the relation arises as from the use or the utilization of knowledge. Similarly, it is considered necessary that the Forum of Ministers should be attentive to the United Nations Declaration on the Rights of the Indigenous people, specifically Article 31, due to the implications that the same entails (The document is included in Annex V).

The recommendations to the Sixteenth Forum of Ministers with the items coming out from this debate are included as Annex VI of this report.

Agenda Item 6: Status of implementation of the Working Group Agenda of the Forum of Ministers and future activities.

Under this item the Group Coordinator and the Secretariat informed on the status of the implementation of Decision 8 of the Fifteenth Meeting of the Forum of Ministers of the Environment of Latin America and the Caribbean.

Participants discussed on the operation of the Working Group, the opportunity to adapt their mandate and working modalities and agreed on future activities, with the purpose of making recommendations in this regard to the Sixteenth Meeting of the Forum of Ministers

The Recommendation that is attached in Annex VI includes a section relating to the operation of the Working Group, with the items that were agreed in regards to future works.

Agenda Item 7: Conclusions of the Meeting

The draft of the Meeting's Report with its Annexes was presented by the coordinator of the meeting and Madame *Rapporteur*, and after the relevant adjustments, it was approved by the participants.

Agenda Item 8: Closing of the Meeting

The meeting was adjourned on Friday 21 September 2007 at 19.30 hours.

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ANNEX I

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ANNEX II

Overview of the Perspectives and the Position of the Indigenous Communities of the Region presented by Mrs. Nury Yagari

Issues of the Indigenous position for the different meetings on ABS

We hold the position adopted by FIIB in not advancing in the discussion while the protection of Indigenous rights is not effectively strengthened.

It is important for the Indigenous people not only to discuss the access issue, but to debate the issues of conservation and recovery of resources and traditional knowledge.

We understand that genetic resources is our base for food safety, the permanence our culture and physical survival, as well as for the entire world that lives from it. In this measure in the international access regime there must be fair compensation recognizing the role that the local and indigenous communities have played in the conservation and protection of the biodiversity. Fair and equitable sharing means the comprehensive recognition of the rights of the Indigenous people, guaranteeing greater well-being.

Fair and equitable sharing must not be treated as a relegated topic from the access issue, in such sense mechanisms that facilitate said concurrent dialogue must be created.

The issue of ownership of the genetic and biological resources linked to traditional knowledge must also be reviewed, in spite of the fact that there are countries that already have decided ownership recognition is necessary for Indigenous peoples.

On the subject on whether if the International regime should be binding or not, we state that it should be binding provided that in the negotiation and adoption there has been real and effective participation of the Indigenous people. This means that not only should we allow Indigenous people to speak but their proposals should be as a minimum, taken into consideration.

A mechanism so that the proposals made by Indigenous people are not rejected should be in effect. This must be take place under the recently adopted United Nations Declaration on Indigenous People.

On the issue of free, prior and informed consent, it is necessary for the same to be related to the right of freewill of the people and to traditional knowledge associated to genetic resources. This means that we the Indigenous People should be entitled to say NO to access to genetic resources and traditional knowledge further sheltered in cultural objection.

Regarding the compliance certificate we agree that it is important for the Indigenous People to have the opportunity of providing follow-up to access to genetic resources and biologic material.

We state that on the subject of intellectual property Rights there are no Rights guaranteeing due protection for the knowledge of the people, in that measure it is possible to contribute to the creation of a sui generis regime in Framework of Decision 391 of CAN and considering the declaration of the Rights of the Indigenous People and other international instruments which guarantee rights as a whole.

We place our trust in the evaluation of the options and opportunities on the subject of certificates and the generation of new proposals from the people.

In the construction of the international access regime it is necessary to take into consideration juridical plurality in the countries where Convention 169 of the ILO has been ratified to recognize that there are also standards inherent to the people that protect the knowledge and which also regulate access to genetic resources and traditional knowledge.

Finally, it is of concern for the Indigenous People the regulation of intellectual property relating to traditional knowledge in the FTA with the United States and this in regards to the new instrument that is sought to be created. Both instruments would be set against each other as the issue of traditional knowledge vs. intellectual property has already been ruled in the bilateral treaty.

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ANNEX III

PROPOSED THEMES IDENTIFIED AS RELEVANT FOR FUTURE NEGOTIATIONS ON ABS

1.- Elements of the Basic regime:

Benefit-sharing and Mutually Agreed Terms

Prior Informed Consent

Nature

Scope

Access in the terms of Article 15 of the CBD

2.- Compliance:

Certificates of origin, source, compliance and legal provenance

Disclosure of origin

Mechanisms to verify compliance with Mutually Agreed Terms. User Country Measures

Observance and compliance mechanism

Access to justice

Financial mechanisms to implement the regime, including the transfer of technology and capacity building

Monitoring and follow-up

3.- Traditional knowledge in the Framework of the negotiations of the regime:

Mechanisms to guarantee compliance with Prior Informed Consent, pursuant to national legislation.

Mechanisms to guarantee benefit-sharing through access to traditional knowledge linked to genetic resources, pursuant to national legislation.

ANNEX IV

Informal dialogue on the International Regime on Access and Benefit-Sharing.

2-3 September 2007

Beijing, PR China

By: Ricardo Torres Carrasco

1. Participants.

1. Dayuan Xue: China
2. Liu Gouzhi: China
3. Gurdial Singh: Malaysia
4. Biswajit Dhar: India
5. Sujeta Arora: India
6. Elpidio Peria: Philippines
7. Jocelyn Nettleton: Philippines
8. Tewelde Berhan: Ethiopia
9. Fernando Cimbra: Brazil
10. Lucia Gallardo: Ecuador
11. Ricardo Torres, Colombia:
12. Chee Yoke Lim: Third World Network
13. Fernando Casas: (co-chair)
14. Tim Hodges: (co-chair)

2. Informal Dialogue Agenda

2.1- Negotiation strategy in both meetings 5 and 6

- Status of the Granada Document: Base Negotiation Document; “transmitted”; “the”.
- Collaboration between the G-77, the Group of Megadiverse Countries and African countries.
- The case of samples of Avian Influenza Virus: Indonesia, China and Vietnam
- Declaration of the Rights of the Indigenous People

2.2- Exchange with the Co-Chairs:

- Explanatory Notes: Two parts of one meeting; Beginning with the substantive

aspects and formal aspects at the end.

- Secretariat's Annotated Agenda: Does not include the Grenada text
- Which is the preferential order among the decisions of the COP 7 Terms of Reference and COP 8 Granada Text.

3. Critical Aspects of the International Regime

- Clearly identify aspects and positions of interest of the developing countries in the Grenada text.
- Compliance:
 - Define the nature and enforcement of the Certificate of Origin, legal provenance or compliance.
 - Disclosure in the Intellectual Property Rights.
- Traditional knowledge:
 - Associated knowledge as it is involved in domestic or improved materials.
- Definitions:
 - Genetic Resources, Biological Resource Material. Reproduction capacity.
- Legal nature: binding.
- Minimum Elements of an Access Regime and DB
- Relation with the International Treaty of Phytogenetic Resources, FAO: Facilitation, Coverage and Inter-relation.
- Relation with the WTO's TRIPS: Article 27,3,b. and 71
- EU Document:

4. CONCLUSIONS:

- A. The main purpose of the International Treaty must be Compliance and observance of the legislation of the nations.
- B. In the event that reference to minimum requirements or elements of the ABS regimes is included, it must have a guiding or educational focus.
- C. The Treaty must be binding.

ANNEX V

United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006, by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly, *Adopts* the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

Annex

United Nations Declaration on the Rights of Indigenous Peoples

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

ANNEX VI

RECOMMENDATION TO THE XVI MEETING OF THE FORUM OF MINISTERS OF ENVIRONMENT OF LATINAMERICAN AND THE CARIBBEAN, ON ACCESS TO GENETIC RESOURCES AND FAIR AND EQUITABLE DISTRIBUTION OF BENEFITS

The Working Group on Genetic Resources, established in Decisions 2 and 8 of the XV Forum of Ministries, met at Paipa, Colombia on the 20th and 21st of September 2007, agree to request to the Forum of Ministers of Environment of Latin America and the Caribbean, to utilize the **attached considerations**, emanated from the present meeting, as a contribution to the participation of countries of the region in the multilateral negotiation on Access to Genetic Resources and Benefit-Sharing.

CONSIDERATIONS

A. Negotiations of the International Regime on Access to Genetic Resources and Benefit-Sharing

Considering, that the next meetings of the Ad-Hoc Open Ended Working Group on ABS of CBD, will advance in the international regime negotiations on access and benefit-sharing, it is necessary to ensure the full participation of the region's countries, so, our interests, needs and particularities, are heard at the same. For this, it is extremely cumbersome, the restrictions with regard to the financing, for assisting the developing countries delegations to multilateral negotiations and in particular to the CBD meetings.

Recommendation: That the Meeting of the Forum of Ministers notes that these limitations affect full representation, transparency and legitimacy of the proposals and agreements consolidated by the negotiations, and that they entrust UNEP to transmit this concern to the Secretariat of the Convention on Biological Diversity.

With regard to the substance of the positions before the negotiations of the international regime, the Working Group considers that the achievements that have been obtained by developing countries at the Granada meeting must constitute a basis for the aspirations of these countries at the following negotiations. For this reason they consider that it is in the interest of developing countries that the document "Annex to Decision VIII/4A Annex to Decision VIII/4A on the International Regime on Access and Benefit-Sharing" (UNEP/CBD/WG-ABS/5/2) constitutes the main text for negotiation.

With regard to the nucleus of the International Regime, the focus should be made on the fair and equitable distribution of benefits derived from the use of genetic

resources, and constitutes a legally binding regime to involve as an objective the creation of international compliance conditions of the national legislation.

Recommendation: That the Meeting of the Forum of Ministers of Environment adopts the criteria that the document “Annex to Decision VIII/4A on the International Regime on Access and Benefit-Sharing” (UNEP/CBD/WG-ABS/5/2) should constitute the main text for negotiations of the Open ended Ad Hoc Working Group, and that they communicate such decision to all the pertinent scopes to promote that countries in the region maintain this criteria at the negotiations to be carried out at the following meanings of the special group of open composition.

B. Working Group of the Forum of Ministers of Environment

The members of the group assessed holding this meeting as timely and opportune meeting for exchange of information and progress in regional dialogue with regards to topics that they should confront in multilateral negotiations regarding the topic of access to genetic resources in the near future. Likewise, the space is provided for developing visions and strategies of regional positions. The work of the group strengthens the positions of the region.

The complex technical characteristics of this topic merit the group to continue working to offer support of specific knowledge in the matter of the Forum of Ministers for the Environment. Bearing in mind the accelerated pace of negotiations it is important to assure they continue the work of the group until the international negotiations conclude. Specifically, it is of vital importance to hold a meeting of the Working Group after the Sixth Meeting of the Ad Hoc Open Ended Working Group on Access and Benefit- Sharing and before the COP9.

Recommendation: That the Forum of Ministers evaluate the continuity of the activities that the Working Group is performing, requesting that UNEP offers greater support for such purposes.

Recommendation: That UNEP evaluate options to facilitate optimization of resources that may be available through the use of communication tools that include electronic network dialogs and debates.

Recommendation: That resources are available for holding a meeting of the Working Group after the meetings of the Ad Hoc Open Ended Working Group on Access and Benefit- Sharing and before the COP9.