

Ministers with their magic wands?

Stefan Krug, Greenpeace

After more than one week of CBD negotiations with little progress in crucial issues like forests, agrofuels, ABS, financing or protected areas, a lot of expectations are now drawn on the "High Level Segment" starting today. Around 140 ministers and guests like the president of the European Commission Jose Manuel Baroso and the European Environment Commissioner Stavros Dimas, Canadian Prime Minister Stephen Harper, UNEP-Head Achim Steiner and other such dignitaries have been invited by German Chancellor Angela Merkel and CBD's president Sigmar Gabriel. For the first time, environment ministers will participate in negotiations in plenary. But... so what? Can we really expect these "high-level" dignitaries to raise their magic wands and find a way out of CBD's deadlocks?

Ministers do not have a magic wand - but neither do delegates. CBD negotiations alone will definitely not bring solutions. If the Convention is further left to delegates, caught in mandates and instructions from their capitals, it is meant to fail. What is needed now, after years of fruitless debates, is a move to higher political levels. It should not be 140 environment ministers, but 140 heads of state that gather in Bonn to put an end to the unabated destruction of life, nature and livelihoods! Chancellor Merkel has the responsibility to take the lead in preventing the failure of the whole Convention. She must push for these points:

- No money - no conservation of biodiversity: Developed countries must fulfill their obligation of Article 20 and raise new and additional money for developing states. Not millions, but billions are needed! Germany should take the lead with 2 billion euro a year - and make noise against the scandalous refusal of EU countries like UK and Italy (see

today's Chainsaw Award at page 4).

- No stop of destruction - no biodiversity left. Major threats as illegal logging, destructive fishing practices, and other forms of overexploiting must be stopped by regulations immediately. And Merkel should abolish the German quotas for agrofuels!
- No rights - no justice. Any incursion into the livelihoods, lands and territories of indigenous peoples and local communities must have their consent, and respect their right to say no.
- No forest protection - no climate protection. Forest protection must be dramatically expanded to stop emissions from deforestation.

Let's see if ministers and a chancellor can make the difference.



Progress Report update and revisions

ABS

Australia must be removed from the 'blocker' category, as they drastically changed their position. Congratulations Australia! Canada continued to be difficult, but they did relent to a compromise late last night. With a roadmap to COP 10 somewhat agreed, the grade on ABS is slowly creeping upwards...

Agrofuels

You may wonder why Brazil was missing from the 'blockers' category in our report card on agrofuels. Besides ECO editors living in a sausage and beer haze, Brazil actually deserves a category of its own, given how it is more focused on securing market access not the objectives of the Convention.

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India's Biodiversity Regime: All Access, No Benefit-sharing

Kanchi Kohli, Kalpavriksh

When India enacted its Biological Diversity Act in 2002, it inked a commitment to conservation, sustainable use and equitable sharing of benefits of the country's biodiversity. Drawing its focus from the obligations of the Convention on Biological Diversity (CBD), a legal regime to "regulate" access and use of life forms and associated knowledge was established. But what remain unaddressed are provisions binding the government to conservation and equity.

It's been over five years since the law was established. Yet the legislation has only managed to grant access, and none of its other objectives including holistic conservation and restricted use. The National Biodiversity Authority (NBA), set up under the law, has granted close to 260 approvals for access towards research, commercial exploitation and Intellectual Property Rights (IPRs). Interestingly 232 of these approvals have been solely for IPRs.

In almost none of these approvals has benefit sharing for local communities been achieved. It is only found in the IPR permissions at a 5% royalty if the patent is licensed/transferred, or 5% of net sales. (*These figures are based on*

the scarce information provided by NBA through India's Right to Information Act, as the NBA website discloses no such details.)

The reality is that while access is underway; the "benefit sharing" dream is far from being realized.



The NBA Member Secretary mentioned in a recent (March 2008) presentation in New Delhi "There is no mention about community ownership of genetic resources, and in the absence of clear guidance on ownership of resources, there is always scope for confusion in sharing the benefits."

The legislation mandates that approvals be granted only after consultation with Biodiversity Management Committees (BMCs) set up at the community level. But so far only 646 BMCs are in place (in a country with 500,000 villages), 621 being from only one state --

Karnataka (in southern India). Virtually no local consultations have taken place before access has been granted (source: www.nbaindia.org).

Additionally, the fear is that setting up BMCs while ignoring pre-existing local community institutions, may lead to the hasty documentation of resources and knowledge, which can then be opened to access without due safeguards. Moreover, there are no guidelines in place for soundly establishing BMCs.

The responsibility for identifying "benefit claimants" is that of the NBA. With no ground level consultations, how do national level bodies plan on doing this? Based on information provided by those seeking access?

The process of establishing guidelines for benefit sharing has taken off only in the last 4-5 months. The government has commissioned the United Nations University for the task. It is however bitterly frustrating that the process is only being initiated 5 years into the Act. Meanwhile, access continues to be the main thrust of what was supposed to be conservation and equitable benefit-sharing legislation.

Protected Areas: On the Right Terms

Some of the most effective means for reducing and halting biodiversity loss are included in the CBD Programme of Work on Protected Areas (POWPA) but are – paradoxically – the ones least implemented. Element 2 on governance, participation, equity and benefit sharing – and in particular its recognition of indigenous and community conserved areas— says most of what needs to be said... it just needs to be implemented!

COP 9 delegates have heard this articulated in a number of meetings and side events at COP 9, including side events sponsored by the IUCN Themes on Indigenous and Local Communities, Equity and Protected Areas (TILCEPA) and Governance, Equity

and Rights (TGER) that looked specifically at governance issues – the heart of POWPA. In such events, members from the Commission on Environmental, Economic, and Social Policy (CEESP) and World Commission on Protected Areas (WCPA), CBD Secretariat, COP delegates and representatives of indigenous peoples and local communities from Australia, France, India, Iran, Italy, Madagascar, Nepal, and Peru among others explored how more appropriate governance of protected areas can help both conservation and livelihoods. The intense discussions that followed dealt with conservation and human right concerns and with the scope, diversity and challenges of protected areas

in general and indigenous/ community conserved areas in particular.

Some consensus has begun emerging on the need for adherence to some broad principles when further expanding protected areas, and within existing protected areas: the respect for human rights; respect for the rights of indigenous peoples and local communities; the respect and engagement of traditional knowledge and institutions; the positive linkage with poverty eradication initiatives; the engagement of multi-stakeholder coordination bodies at the PA system level; and the adoption of the ecosystem approach. These principles are already known and adopted by the international

Agro fools – where are we at?

Susie Walsh of USC Canada and Helena Paul of Econexus

We are in the middle of what many see as the “make or break” COP. In view of the biodiversity destruction and food crisis taking place outside the unreal world of the Maritim, the governments here must set aside their individual interests for the sake of humanity, and move the process forward. If they do not, governments will be responsible for (once more) fiddling with brackets while biodiversity burns.

But there appears to be a serious lack of good faith among many governments present here at COP9. Vital food security and poverty issues, particularly related to agrofuels and GM trees, are ignored, as countries wrangle over text that suits their particular interests. They seem to forget that this Convention is about the broader welfare of our planet and the people who steward the biodiversity we all need to survive.

On the subject of agrofuels, it is clear that supportive measures in developed countries are already impacting the global South by contributing to speculation, hoarding, the displacement of food crops, land seizure, land degradation through monocropping and fertilizer, and the expulsion of vital food producers from the land. Yet agrofuels are being presented at COP 9 as a silver

bullet with potential positive impacts on biodiversity. But the evidence against agrofuel production is mounting and daunting. Few scientists champion their virtues anymore. Even keynote speaker this past Friday, Jeffrey Sachs, called agrofuels the “stupidest thing ever”! Ismail Serageldin, former World Bank president and head of the CGIAR, has also called their value into question at a recent meeting in Alexandria. So why do the parties not simply call a halt to incentives including targets while all the other issues are examined? Otherwise, they might just find themselves embarrassed when they head to the Rome summit next week.

Commercial interests are racing to grab land around the world, growing crops to feed cars not people. Biodiversity, especially agricultural and forest biodiversity, already under threat from climate change and industrial agriculture, is being destroyed today by the promise of profits from an emerging industry that has not proven it can do anything to address the problems of climate-changing emissions. Farmers from indigenous and local communities are being driven off the land into urban slums, where they cease to be food producers and add to the rising numbers of those who need to be fed.

Governments in the global south want to appear climate friendly while earning vital foreign currency to service their debts. Industrialised countries hope they can use agrofuels to avoid making unpopular reductions in energy consumption.

Several parties have placed their faith in standards and certification schemes as ways to address potential excesses and the problems targets, and other supportive measures, are causing. But when have these certification systems, especially voluntary ones, ever fully worked, especially in the global South?

The biofuels horse has bolted and the damage is being done right now. Certification rules will not pull it back into the stable. They are a fig leaf trying to cover the fact that agrofuels are a mess. And industry, plus countries like Brazil and Canada, are seeking to make even these compromised efforts voluntary. However well-intentioned certification schemes might be, seeking to impose them at this point is like trying to put the saddle on a run away horse. We call on the Parties to rethink their support of unbridled agrofuels production. What we need now is a moratorium.

New Zealand cannot resist

Sandy Gauntlett, Pacific Indigenous People Environment Coalition

Once again New Zealand revealed its conservatism on Indigenous issues during recent discussions on the ecosystem approach. In section three of the discussion paper (which invites parties to take action) the original wording of paragraph 3 read, “Give consideration to the challenge of incorporating land tenure and marine issues in the application of the ecosystem approach, in accordance with national policies, laws and guidelines and taking into account the relevant provisions in the United Nations Declaration on the Rights of Indigenous Peoples.” Fairly innocuous by most peoples standards, but apparently too confusing for poor old New Zealand who moved – lead by delegation-head Janet Lo -- that the word ‘tenure’ be removed because the intent of the sentence was unclear.

The intent of the original sentence was to ensure a system guaranteeing that land tenure be secured and legally binding before setting in place any system of land management.

It may seem a small point but we need to remember that New Zealand was one of only four nations to oppose the Declaration on the Rights of Indigenous Peoples. We also need to remember that one of the notorious gang of four (Australia) has since rescinded their opposition and yet another (USA) is not a party to the CBD, leaving New Zealand and Canada alone amongst the participating nations here in their opposition to a formal agreement on Indigenous Rights. Moreover the now infamous Foreshore and Seabed Act nationalized large areas of what had been previously regarded as Maori land.

This legislation was applied retroactively to remove the slightly embarrassing problem of a High Court decision in favour of Maori claims.

As an Indigenous New Zealander, I am appalled at the actions of the New Zealand delegation in this respect and plead with other delegations to defend the rights of Maori New Zealanders to some certainty in our land and marine tenure systems before we empower the Government to negotiate over an indigenous biodiversity they may hold no legal ownership over once the Wai 262 claim is settled. (Maori land claim to the entirety of the country’s indigenous flora and fauna)

This is more than a case of injustice to Maori; it is a matter of upholding the rule of law.

Notes from the COP

The CBD and CP: Conniving for Biodiversity or Convenient Partnership?

The Charoen Pokphand Thai Private Sector, or the CP Group, held a side event last May 22 in Saal Maritim. The side event was 'graced' with the presence of no less than CBD Sec. Ahmed Djoghlaif.

CP Group's information package boasts 'Asia's Leading Globally Committed Conglomerate', and that the company is 'seizing opportunity where they find them'. 'Seize' is the right term – Asians can tell you of the many cases when CP's seizures have affected the livelihoods of rural communities, and how the company has profited at the expense of farmers, their resources, and biological diversity. And that's their idea of contributing to achieving the CBD's objectives!

CP Group has investments spreading from seeds to feed to food to telecommunications in Bangladesh, Cambodia, China, India, Indonesia, Malaysia, Burma, Singapore, Taiwan, Thailand and Vietnam. Recently, CP has started investing in agrofuels— luring farmers to plant cassava and hybrid maize in Cambodia, Laos and Thailand for agrofuel production; in the process driving farmers to change their crops, and even practice 'slash-and-burn' to clear remaining forest areas for agrofuel production.

So how come the CBD Secretariat participated in a side event with them? Is this their idea of the CBD's Article 5 on 'Cooperation' – the promotion of a controversial company with a history of "slavery contract farming" -- farmers reportedly losing their decision-making powers and shouldering all production risks. And what about the company's dubious intent to convert food baskets to ethanol baskets in Southeast Asia?

Much as the Secretariat has extended a hand to CSOs, the CP-CBD Secretariat side event poses the question: what businesses should the Secretariat engage with, and on what terms? The CP group is a dubious partner at best.

What DID Jeffery Sachs say?

Jeffrey Sachs (Special Advisor to UN Secretary General Ban Ki-moon) gave a provocative lecture on Friday night. He managed to coax both smiles and grimaces up and down the political spectrum – he had both a candy and poison pill for

everybody. One of his more startling claims, given his history promoting the firesale privatization of state resources in transitioning economies (Bolivia, Poland...), was that markets cannot appropriately value ecosystems. Given the current buzz around ecosystem valuation as a preferred means for biodiversity protection, Sachs was a buzzkill. His simple claim was that ecosystems don't play by market rules -- primarily individualized property ownership -- and are indeed damaged by these rules. In very simple terms: no one owns the natural *commonwealth*, and individual ownership often works to fragment fundamentally interconnected systems. We commodify life at the risk of destroying life since it is not naturally commodity.

His point that market logic can create havoc in social and ecological systems is worrisome for the plethora of COP9 participants hedging their bets on business to lead the way towards the 2010 target. Of course his cool dismissal of traditional knowledge, and tentative endorsements of GMOs, nuclear power, and industrial agriculture are more soothing to the industry crowd. But that such an influential economist is so skeptical of market mechanisms should be a reminder to Parties that effective biodiversity protection requires binding rules imposed *on* markets and business more than betting on the parochial profit-motive to safeguard our natural riches.

Quote of the Day

(paraphrased from ABS group)

Canada to plenary: "We don't have the mandate to agree that the ABS Working Group works on the legal nature of the ABS Regime. [ed note. A legally binding regime is urgently desired by most of the world's countries]

China to Canada "With all respect delegate from Canada, report to Capital for further instruction. Call home. It is only noon there."

Activists Symbolically Cut Trees to Save Forests and Call for GE Trees Ban

Yesterday activists stopped and cut Genetically Engineered frankentrees that were attempting to invade a tree planting ceremony outside of the meeting of the UN Convention on Biological Diversity (CBD).

The activists expressed concern about the refusal of the EU and Brazil to ban GE trees. "These trees are simply too dangerous, not only to forests, but also to local communities and Indigenous Peoples who depend on forests for their existence," stated Camila Moreno of Terra de Direitos of Brazil.

[1] The STOP GE Trees Campaign is comprised of 137 organizations in 34 countries

Today's Nomination for the Golden Chainsaw Award!

EU receives today's nomination for the Golden Chain Saw Award for opposing any strong text about new and additional financial resources for saving biodiversity in developing countries. For some European states like UK and Italy, but also France and Austria, Article 20 of the Convention seems not to be an obligation, but rather something to be deleted or watered down.

Protected Areas, from page 2

community, as exemplified by the UN Declaration on the Rights of Indigenous Peoples and by the World Bank Policy on Displacement, which interprets even undue restrictions on access to natural resources as "displacement".

It was also noted that protected areas appear always in need of more resources, both from governments and international donors (a major mechanism to provide such resources discussed at COP 9 was the Life Web initiative). These resources, however, must be guided by the aforementioned principles.

Unfortunately, it was also reported that protected areas and the indigenous peoples and local communities managing, living within, or dependent on such areas, continue to be threatened by large-scale infrastructure projects and extractive industry, and that seemingly nowhere have adequate steps been taken by CBD Parties to address these threats. Many believe that even very well managed areas cannot survive as islands within a degrading landscape. On the contrary, protected areas need to be positively linked to management and use policies for their surrounding terrestrial, wetlands and marine resources, and to governance structures at the landscape/seascape level.

For more information www.tilcepa.org, www.tger.org, <http://www.iucn.org/themes/ceesp/CCA/>