

## SBSTTA 26 Highlights: Thursday, 16 May 2024

The 26th meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA 26) continued its deliberations, holding contact group sessions throughout the day and into the evening to address: synthetic biology; marine and coastal biodiversity; the monitoring framework for the Kunming-Montreal Global Biodiversity Framework (GBF); and biodiversity and health.

### Contact Group on Synthetic Biology

The contact group on synthetic biology, co-chaired by Jane Stratford (UK) and Ossama AbdelKawy (Egypt), resumed discussions based on a non-paper incorporating interventions made in plenary on Monday and Tuesday, and at the contact group's first session. Co-Chair AbdelKawy pointed out that the non-paper reflects a carefully crafted package and urged delegates to accept it as a compromise.

Regarding the preamble, some delegates wanted to "welcome," while others were only ready to "take note" of the outcome of the work of the multidisciplinary *ad hoc* technical expert group (maHTEG). Delegates finally agreed to "acknowledge" the work of the maHTEG, and to take note of its specific outcomes, as a compromise. A similar outcome was agreed on the peer review process, with delegates agreeing to "welcome" the peer review, and to take note of the resulting information document ([CBD/SBSTTA/26/INF/6](#)).

On a provision on capacity building and technology transfer, a regional group suggested, and delegates agreed, referring to strengthening capacity building and technology transfer, noting the importance of considering the inequity of participation by developing countries. Following protracted discussions, delegates decided to delete a provision on potential positive and negative impacts of synthetic biology on the objectives of the Convention on Biological Diversity (CBD) and the GBF goals and targets.

A lengthy discussion took place, without reaching consensus, on which CBD decisions should be recalled as well as on whether to reflect details of these decisions in the SBSTTA draft recommendation to the 16th meeting of the Conference of the Parties (COP 16). Some delegates suggested, opposed by others, recalling the relevant decisions with no additional details. Co-Chair AbdelKawy suggested elaborating on the decisions that constitute the basis of the process, and recalling the rest. Discussions will continue.

On the section on capacity building and development, access to and transfer of technology, and knowledge sharing, delegates discussed text recognizing the urgent need for these activities. Delegates suggested references to: CBD Articles 8(g) (regulate, manage, or control the risks associated with living modified organisms) and 16 (access to and transfer of technology); research, development, assessment, regulation, and utilization of synthetic biology; and the maHTEG's outcomes of the horizon scanning, monitoring, and assessment process. All new suggestions were bracketed, with Co-Chair AbdelKawy urging delegates to engage in informal consultations to reach compromise.

In the evening, Co-Chair Stratford announced that this would be the last session of the contact group, and that the remaining time would be divided between the sections on capacity-building and development, and on broad and regular horizon scanning; and the draft recommendation. Discussions continued into the night.

### Contact Group on Marine and Coastal Biodiversity

The contact group on marine and coastal biodiversity, co-chaired by Erica Lucero (Argentina) and Gaute Voigt-Hansen (Norway), met to discuss modalities for the modification of descriptions of ecologically or biologically significant marine areas (EBSAs) and the description of new areas. Participants based their discussions on a non-paper reflecting amendments suggested in plenary on Tuesday and Wednesday.

The morning discussions addressed the modalities for the modification of descriptions of EBSAs, or descriptions of new ones. The relevant part of the annex proposes two pathways for EBSAs within national jurisdiction: one entailing inclusion in the more formal EBSA repository, through a process requiring consideration by SBSTTA and the COP; and the other, entailing inclusion in the less formal information-sharing mechanism (ISM), which does not require further consideration.

Delegates refined the text outlining the processes for submissions in the repository, and submissions solely to the ISM, in turn. For both of these processes, they addressed text on the information to be included by proponents in submissions to the Secretariat; the steps to be taken by the Secretariat to issue notifications regarding submissions and communicate these in the ISM; and the process for receiving and addressing comments on submissions, including who would be invited to provide comments, and the steps that proponents may take on the basis of the comments. For the process entailing submissions in the repository, delegates discussed text stipulating that submissions only proceed further where proponents address the comments received, as well as the process for consideration by SBSTTA and potentially by the COP.

Several discussion points were sent to further informal talks between delegates, as no agreement could be reached. These included a debate on retaining text outlining a process for rectifying "editorial errors" in EBSA descriptions, with several delegates stressing the need for safeguards to distinguish errors from substantive edits constituting modifications. Another unresolved issue was whether submissions that do not progress to the formal repository stage should be retained within the ISM permanently, with some delegates preferring retaining only a record of the submission. Following strongly divergent views on whether issuing notifications on comments should be mandatory or optional, the co-chairs encouraged informal consultations.

Delegates considered the necessity of workshops to facilitate the development of submissions. Some participants were concerned that the potentially mandatory workshops lacked clearly defined modalities, while others reminded the contact group of these workshops' usefulness for parties requiring capacity support to undertake the EBSA process. The relevant text was bracketed.

Requests for clarification regarding jurisdictional issues were earmarked for later discussion on the pertinent sections of the text.

In the afternoon session, the contact group heard back from the three informal discussion groups held over lunch. Convergence was found on the steps available for proponents of EBSAs within national jurisdiction, following comments received on submissions. In the case of submission to the repository, pathways include: requiring proponents to address the comments in order to proceed to subscription in the repository; and for proponents not wishing to address the comments and therefore not to proceed further, options to retain a record of their submission on the ISM, with this information available upon request to the Secretariat, or to delete the submission from the ISM. Informal discussions were ongoing on the issuing of notifications.

Delegates then addressed procedural matters, rapidly going through the modalities for the EBSA process in areas beyond national jurisdiction, before turning to the sections covering overarching provisions on the repository and ISM for EBSAs, and guidance in the modalities' implementation.

Regarding the repository and ISM's contents, delegates addressed lists of proposals. They supported including descriptions of areas meeting the EBSA criteria, which have been considered by the COP, in the repository. On where to archive previous versions of EBSA descriptions, some delegations proposed having two archives, within the repository and the ISM, to reflect the distinct processes for EBSAs within national jurisdictions. Meanwhile, the ISM would furthermore contain a wider scope of information, including reports of regional workshops, guidance on applying the criteria for EBSAs, and the types and application of information used.

Regarding guidance for implementing the modalities, delegates addressed text covering: the reasons for which modifications to EBSA descriptions can be made; the proponents who can modify existing EBSAs or propose new areas; elements that proponents should consider in making modifications or proposing new areas; and the process by which states can object to modified or new descriptions.

Discussions ensued on several elements. A suggestion to specify that states can withdraw EBSAs drew concern from several delegates, who noted this would require a specific process, and already falls within states' sovereign rights. On the structure for addressing EBSAs within and beyond areas of national jurisdiction, some noted their concern on introducing political considerations to a scientific and technical process, while others emphasized the inherently political nature of EBSAs due to their occurrence in sovereign states' jurisdictions.

Divergence arose regarding EBSAs that straddle multiple states' jurisdictions, following a suggestion requiring proponents' "collaboration with concerned states." Many opposed this, noting that collaboration is provided for in other parts of the document, and urged against creating this new obligation. Strong divergence furthermore occurred on whether the mandate of SBSTTA allows consideration of legal and political issues such as sovereignty. Language permitting states to object to any modifications or new descriptions of EBSAs was finally maintained, following a divergence of views, with several delegates stressing that addressing this issue was mandated to SBSTTA at COP 15.

### **Contact Group on the GBF Monitoring Framework**

The contact group on the GBF monitoring framework, co-chaired by Anne Teller (EU) and Hesiquio Benítez Díaz (Mexico), held its third session, resuming discussions on the remaining binary indicators.

Regarding Target 22 (participation in decision-making for all), delegates agreed to align the wording in the indicator with that of the target referring to Indigenous Peoples and local communities' rights over lands, territories, resources, and traditional knowledge as well as references to specific stakeholder groups.

Regarding Target 23 (gender-responsive approach), delegates agreed to consistent references to "legal, administrative, or policy measures" as well as to "natural resources." Following a debate, a reference to the allocation of specific financial resources for the target was deleted.

On a provision noting that the Working Group on digital sequence information (DSI) is considering monitoring as part of its work to further operationalize the multilateral mechanism, delegates discussed whether SBSTTA can invite: the co-chairs of the DSI Working Group to facilitate a discussion of possible modalities to monitor benefit-sharing through the multilateral mechanism; and the DSI Working Group to propose options for a process to develop relevant indicators. These additional provisions remain under consideration.

On a list of requests to the Secretariat, delegates suggested: extending the peer review in [notification No.2024-033](#); extending the revision of document [CBD/SBSTTA/26/INF/20](#) on private funding; producing, in collaboration with the AHTEG, an updated version of [CBD/SBSTTA/26/INF/14](#) and [/19](#), aligning language with the GBF and reflecting the final wording of the binary and headline indicators; and including potential updates in the pre-session document for COP 16 regarding component and complementary indicators, which were removed by the AHTEG for not meeting the criteria in Decision 15/5 and have since met those criteria.

Delegates further agreed to "take note with appreciation" rather than "welcome": the work of the AHTEG on indicators and other advisory groups; the contributions of international organizations and initiatives; and the work under the Bern process.

The contact group concluded the revision of the preambular paragraphs, agreeing to: note the process to develop an indicator for the Gender Plan of Action; recognize that capacities for data collection, generation, and processing, and for database maintenance are unevenly distributed, and that developing countries require implementation support in this regard; and recognize the importance of strengthening national monitoring, reporting, review, and information systems as the primary source of information to monitor the GBF, including ecosystems, in line with national circumstances and priorities.

### **Contact Group on Biodiversity and Health**

The contact group on biodiversity and health, co-chaired by Jahidul Kabir (Bangladesh) and Barbara Engels (Germany), addressed the non-paper prepared following interventions made in plenary on Wednesday. Following an attempt by the co-chairs to accept the non-paper, noting it incorporates suggested amendments, to enable focus on the draft recommendation, delegates preferred to address the document section-by-section. Participants engaged in detailed discussion on the section outlining the purpose of the global action plan on health, as contained in the annex, with divergence arising on the inclusion of elements considered to be beyond the CBD's mandate. Discussions continued late into the evening.

### **In the Breezeways**

As rain clouds began to build over the UN Nairobi campus, delegates buckled down for continuous rounds of contact group negotiations. Hopes that a non-paper on synthetic biology would be accepted as a compromise were quickly dashed as delegates got stuck in the nitty gritty of preambular paragraphs, with some suggesting that discussions were "regressing beyond previously agreed language." Between the two sessions of the group, a delegate expressed concerns that "we seem to ignore the work done since COP 15, including the findings of the mAHTEG." Meanwhile, the marine contact group participants charged ahead to conclude a first reading of the document regarding ESBA process modalities. While these discussions regularly ventured into stormy jurisdictional territories, the group was able to progress on many elements.

The negotiations got bogged down on long-standing political issues, with some lamenting that the discussions in what is supposed to be a technical and scientific body remain highly politicized, delegates who have long participated in the negotiations were not surprised, but rather reminded of how SBSTTA used to be informally referred to as "the mini-COP."