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Agenda Item 2 - Nagoya Protocol

ABS Statement

by German Protestant Church Development Service and several NGOs of CBD Alliance

Based on our analysis of the many issues of the Nagoya Protocol and also the benefit obligations under Art. 15.7 of the CBD, we would like to focus on the most critical unresolved issues:

1) The interlinkages between compliance and tracking and monitoring systems:

The focus of the access provisions of the Nagoya Protocol is on the utilization of genetic resources and associated traditional knowledge in private and public research and development. Future Parties of the Protocol, especially those with major users in private and public research and development, need to ensure active tracking and monitoring of these activities through the designated governmental authorities. National systems that almost exclusively rely on the concept of "due diligence" exercised by private and public users combined with an almost invisible role of governmental authorities will not stop biopiracy. Our analysis of recent biopiracy cases casts doubt on such weak measures.

Effective compliance systems at national level and a strong compliance mechanism at the international level are essential to ensure that genetic resources and associated traditional knowledge are accessed with prior informed consent and mutually agreed terms and that benefits are shared in a fair and equitable way. Tracking and monitoring measures, which are necessary to support compliance are:

- transparent national permits;
- the presentation of complete information at the ABS CHM; and
- effective checkpoints that follow up the chain of utilization at the source of funding of R&D activities, the application for IPR and the commercialisation phase.

2) Indigenous peoples and local communities:

Recognizing and respecting genetic resources and associated traditional knowledge of indigenous peoples and local communities at a comparable level as genetic resources under the control of the State is a major step forward. In order to enable indigenous peoples and local communities to make full use of the Nagoya Protocol provisions, it is necessary that the respective rights are established at national level. Such rights have been agreed e.g. at the international level in the UN Declaration on the Rights of Indigenous Peoples, supported by CBD Parties.

Due to technical issues, this statement could not be given in the Working Group.

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Rewriting History?

Do not 'retire' text about Terminator technologies!

COP spends many thousand of hours negotiating decisions. Now that implementation of past decisions is to become the core priority of the COP, it seems perverse to edit out past text... unless this is a politically-motivated rewriting of history.

COP7's decisions on *Agricultural Biodiversity (VII/3)* and *Article 8j (VII/16)*: Why have the paragraphs on Genetic Use Restriction Technologies (GURTs) been singled out for deletion? They provide historical links to currently contentious issues concerning the moratorium on GURTs or 'Terminator technologies'.

Text proposed for deletion in papers **UNEP/CBD/COP/11/20 and UNEP/CBD/COP/11/INF/1**. Concerning GURTs, specifically reject proposals to retire: **Decision VII/3, para. 3, 4, 5 and Decision VII/16, Section D, para 2, 3, 4.**

Some Parties have already objected but all Parties should insist that deletion of past, agreed text is unnecessary.

Built on the past; implement decisions; and do NOT 'retire' agreed text on Terminator technologies!



**BAN
TERMINATOR SEEDS**

Solving the Puzzle

Social and Cultural Dimensions of MPAs in South Africa

Donovan van der Heyden, Coastal Links (South Africa) & Nico Waldeck, WFFP

For indigenous peoples and local communities in South Africa, Marine Protected Areas (MPAs) are associated with loss of access to their waters, land and associated natural resources. The Marine Living Resources Act, which is the main act governing marine resources in South Africa, has been an exclusionary policy that has never given recognition to traditional small-scale fishers. In Hout Bay along the western seaboard, when the MPA was declared, the local traditional community was excluded but an exception was made for commercial vessels to carry out experimental lobster harvesting within the MPA and the marine reserve. The commercial vessels, however got a 30 year lease.

The communities' exclusion has caused local fishers to resort to 'illegal' fishing activities at night, which have led to frequent loss of life (of fishers), the rugged coast being difficult for them to navigate through their small traditional 'oar-powered' fishing vessels. In addition, boats are destroyed by conservation officials and authorities. The exclusion has also resulted in many social problems; for instance, people who depend on these resources are often subject to drug and alcohol abuse, and the community also has a high, school drop out rate. This is because they have to shoulder the responsibility of becoming the breadwinners at a young age having lost their fathers at sea. Adulthood having been thrust upon them so early, has led to other social consequences such as teenage pregnancy.

These issues, drawing on presentations from several countries, will be discussed in the Side Event hosted by the International Collective in Support of Fishworkers and the World Forum of Fisher Peoples (WFFP) to be held Thursday 11th at 13h15 Room 3 HITEX 1 Ground Level.

The Hout Bay community feels they are more than capable of catching the lobsters for the experimental research and working with the government towards co-ownership. This would be a more environmental friendly approach, since the local community makes use of low impact boats and traditional fishing equipment. Though the community has shown interest in carrying out the research (instead of bringing in outside commercial interests), the government has been unwilling to consider this option. Indigenous peoples and local communities have always recognised and appreciated the importance of biodiversity, including the protection and preservation of ecosystems and are more than competent to contribute meaningfully to conservation of biodiversity. This is evident in the fact that before any government assumed this responsibility and before the devastating consequences of profit driven industries, they were the sole custodians of our natural resource's sustainability. Indigenous knowledge has often been used by scientists but has never received due recognition, with scientists often claiming the knowledge as their own.

In conclusion we reiterate that the indigenous peoples and local communities of the world demand recognition through their meaningful inclusion and effective participation. Governments have to own up to their obligation to equip the marginalised, availing them with necessary funds and resource development assistance. This can be considered as the first step, laying the foundation for a trustworthy relationship based on governments commitment to transparency and inclusiveness.

A couple of positive signs have emerged in South Africa. After 25 years of such struggle, the Hout Bay community have managed to get the government to cancel the licence to commercial lobster vessels in the MPA, though this has not resulted in restoring fishers' access to resources. The South African Parliament, this year, has approved a small-scale fisher's policy which recognizes that MPAs are a stumbling block for sustainable use of marine resources.

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Submissions are welcome from all civil society groups.

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India's Marine and Coastal Biodiversity Under Serious Threat from Developmental Projects

BNHS, National Coastal Protection Campaign, Dakshin Foundation, PondyCAN, Kalpavriksh, ICSF, Greenpeace India

Marine biodiversity conservation remains seriously under-represented in India's conservation efforts even though the Indian Ocean has amongst the richest biodiversity in the world. This is especially significant given that the entire coastal and marine stretch of the country is coming under unprecedented threats from 'development' projects. Urgent legal, policy, and institutional action is needed to conserve coastal and marine biodiversity, especially by empowering traditional coastal communities through recognizing tenurial rights and regulating the kind of development that is allowed in such areas.

Unprecedented 'development' along the Indian coast is taking place; including ports, power plants, ship yards, coastal armouring, and aquaculture. This spells doom for large tracts of inter-tidal and near-shore marine areas. These developments will make already vulnerable traditional and artisanal fishers more vulnerable, destroying or displacing livelihoods.

For example, 15 proposed power plants (totalling 25GW), 6 captive ports and 6 mega shipyards are coming up in a 150km stretch of coastal Maharashtra. This will expose the whole coast's inter-tidal areas and adjoining waters to thermal pollution, directly affecting near shore biodiversity and fisheries.

Similarly, Andhra Pradesh is proposing 10 new ports, 15 new thermal power projects (8 of them in one district), and several other power plants with uncertain locations. Additionally, the state has 70 special economic zones (SEZs) proposed in 15 districts, including a staggering 5 million acres in a coastal corridor that will include airports, sea ports, ship-breaking, pharmaceutical, petrochemical industries.

None of the EIAs of existing power plants takes into account the issues around thermal pollution of sea water; nor do existing policies make cumulative impact assessments mandatory. These are serious gaps, considering that migration of fish can have significant impact of traditional fishing grounds, adversely affecting a large number of species with narrow range of temperature tolerance.

On the occasion of COP 11, India can announce

significant steps to curtail this kind of reckless development, and to ensure the conservation of marine and coastal biodiversity.

This will need at least the following:

- Prohibiting or regulating development projects in coastal and marine areas, avoiding any biodiversity-damaging and livelihood-displacing projects
- Empowering traditional coastal communities, especially through clear tenurial rights, to maintain their conservation-oriented traditional practices and to have a central voice in decisions affecting the coastal and marine areas
- Providing legal and policy backing to a range of conservation measures that promote community conserved areas and co-management, using laws such as the Environment (Protection) Act, Biodiversity Act and Forest Rights Act

Coastal communities are not coming forward for formal conservation regimes because of their highly restrictive and undemocratic nature. For example the legal ambiguities within the Wild Life (Protection) Act 1972 amendments of 2001, make the Conservation Reserve and Community Reserve concepts redundant or regressive. If such anomalies are removed, and laws that promote community based conservation measures are used, India's coastal and marine areas could be more effectively protected against destructive development.

There is an urgent need for a clear Policy on Coastal and Marine Conservation and Livelihood Security, which keeps in mind the social, ecological, economic and political context, and secures the biodiversity of these areas through empowering traditional coastal communities and regulating developments in such areas.

Who benefits from development of Private Ports In India???



Synthetic Biology

A New & Emerging Threat to Biodiversity

Eric Hoffmann, Friends of the Earth

Buried in the agenda under “Operations of the Convention,” agenda item 6.2 hides one of the most important issues under consideration at COP11: whether the CBD should accept synthetic biology as a new & emerging issue and whether the COP should put the brakes on this risky and rapidly-developing technology.

Synthetic biology, or ‘extreme genetic engineering,’ refers broadly to the use of computer assisted, biological engineering to design and construct new synthetic biological parts, devices and systems, and to redesign existing biological organisms. Unlike ‘conventional’ genetic engineering, which moves one or two genes between organisms, synthetic biology involves the digital writing of genetic code, working with hundreds of genes at a time, to create novel synthetic organisms that never existed before.

Many of the world’s largest energy, chemical, pulp & paper, pharmaceutical, food and agribusiness corporations are investing heavily in synthetic biology. The synthetic biology industry was reportedly worth \$1.1 billion during COP-10; is worth \$2.1 billion today, and is expected to be worth \$4.5 billion by COP-12. A handful of products derived from synthetic biology have already been commercialised and many others are in pre-commercial stages.

Threats to Biodiversity

Synthetic organisms released into the environment could lead to genetic contamination, passing on synthetic genes and novel traits to natural organisms. These contaminated synthetic organisms could create become a new class of invasive species; taking over entire ecosystems, or could pump pollutants, i.e. oil or chemicals, directly into the environment. To date, there has been no scientific process to thoroughly assess the environmental risks of synthetic biology.

Proponents argue that synthetic biology will enable a new “bioeconomy”. Synthetic biologists want to turn microbes into “living chemical factories” that can be engineered to produce substances they would not produce naturally. These microbial production processes depend on industrial-scale supplies of feedstocks, notably sugars derived from agricultural and tree plantation biomass. In-

creased demand for biomass in order to feed synthetic microbes in the ‘new bioeconomy’ could have enormous impacts on biodiversity and livelihoods.

Synthetic biology also has the potential to de-stabilize traditional commodity markets, displace workers, and eliminate jobs by replacing natural botanical compound production through synthetic production in these “living chemical factories.” Synthetic biology companies are already partnering with the world’s largest flavour and fragrance, cosmetic, food ingredient and pharmaceutical companies to engineer microbes to produce compounds naturally found in plants including flavourings such as vanilla, liquorice and saffron, sweeteners such as stevia, oils such as jojoba, and strategic materials such as rubber and medicines.

Time for the CBD to Act!

Despite synthetic biology’s many risks, there is currently no national or international regulatory framework to guide this industry. Equally troubling, there has been no environmental risk assessment conducted on any synthetic biology technology or organism anywhere to date. The CBD is the only international body looking at the environmental and socio-economic risks of synthetic biology and the Convention must act now before the potential harms of this emerging technology become a reality.

Parties must be guided by the Precautionary Principle and implement a **moratorium on the environmental release and commercial use of synthetic biology**. Synthetic biology poses clear and grave risks to biodiversity, the environment, human health, food security, as well as socio-economic risks.

Parties **should also support option 2 from SBSTTA-16 recommendation XVI/12** which would provide Parties with the most relevant information when considering risks posed by synthetic biology and would allow the CBD to continue monitoring this booming industry.

In addition, COP11 should request that the Parties to the Cartagena Protocol and the Nagoya Protocol extend the scope of these agreements to cover new synthetic biology systems and technologies.