



DEVELOPING AN INTERNATIONAL REGIME ON FAIR AND EQUITABLE BENEFIT SHARING FROM GENETIC RESOURCES

From 1-5 December 2003, the Second Ad Hoc Open-Ended Working Group on Access and Benefit Sharing is meeting in Montreal to take forward the mandate adopted at the World Summit on Sustainable Development in Johannesburg, which called for the development of an international regime on fair and equitable benefit sharing arising out of the utilization of genetic resources. This mandate is meant to build on the Bonn Guidelines on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising out of their Utilization, adopted by the Sixth meeting of the Conference of Parties of the Convention on Biological Diversity in 2002 in The Hague.

The issue of access to genetic resources and equitable benefit sharing goes to the heart of the Convention on Biological Diversity (CBD), being one of its three main objectives, and is strongly linked to achieving the conservation of biodiversity, protection of traditional knowledge, and promotion of sustainable livelihoods. The development of concerted international approaches and mechanisms that are fair and equitable will not only require a strong commitment by both user and provider countries, but will involve confronting many complex legal, economic and policy challenges.

In support of this process, and with a view to enhancing the knowledge base of stakeholders and delegates by providing analytic inputs, IUCN convened a side-event on 1 December entitled "Practical Aspects of the International Regime on Access and Benefit Sharing". This side event was organized by the IUCN Policy, Biodiversity and International Agreements (PBIA) unit, and chaired by Maria Fernanda Espinosa, IUCN Policy Advisor on Biodiversity and Indigenous Peoples. Financially supported by the German Ministry of Economic Cooperation (BMZ), this side event brought together approximately 50 experts, NGOs and government delegates, from developed and developing countries, for a wide-ranging discussion of key issues facing delegates this week.

Manuel Ruiz, Director of the Peruvian Society of Environmental Law, presented a paper assessing the gaps and challenges of developing an international regime on access and benefit sharing. He indicated that there are both advantages and disadvantages to developing new international instruments on access and benefit sharing, as compared to focusing on how to operationalise existing instruments. He urged delegates to weigh these factors carefully, before deciding on the best way forward.

Richard Tarasofsky, Special Adviser to IUCN on Trade and Biodiversity, addressed those aspects of the international regime that relate to intellectual property rights (IPRs). He noted that fulfilling the WSSD mandate will involve consideration of highly technical

IPR issues that are covered by several international legal instruments and processes. He emphasized, however, that the CBD offers the best international forum in which to forge a global consensus on how IPRs can support the objectives of the CBD, but that the design of the negotiation process for the international regime will be crucial in achieving a constructive outcome. Accordingly, he called on delegates to design a negotiating process this week that will include both an analytic and an action-oriented phase.

Tomme Young, Senior Legal Officer at the IUCN Environmental Law Centre, presented an overview of an ongoing project on national legislative frameworks for access and benefit sharing. She reported that the results so far reveal a considerable number of important developments at the national level that should impact on decisions relating to the content of the international regime. In particular, she noted that national regimes on access and benefit sharing have generally not worked effectively due to the lack of key underpinnings of law, policy, and administrative structures.

The IUCN delegation will continue to participate in the Ad Hoc Working Group meeting, as well as the third meeting of the Ad Hoc Open-ended Inter-sessional Working Group on CBD Article 8(j) on traditional knowledge and related measures, to be held immediately following.

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Visit the Second Ad Hoc Open-Ended Working Group on Access and Benefit Sharing section on the Convention on Biological Diversity website:
<http://www.biodiv.org/doc/meeting.aspx?mtg=ABSWG-02>