

**COMMENTS FROM MEXICO AS FOLLOW UP TO NOTIFICATION 2010-216 OF THE EXECUTIVE SECRETARY OF THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD) IN RELATION TO “CAPACITY BUILDING” IN PREPARATION FOR THE FIRST MEETING OF THE INTERGOVERNMENTAL COMMITTEE FOR THE NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION (JUNE 6-10, 2011)**

Mexico contributes to the implementation of awareness-raising workshops and courses for public servants at the federal government level, as well as in some States and Municipalities, addressing the areas of Indigenous Rights in general and, in some cases, more specifically, in areas of interest to the stakeholders, such as preferential right of access to the natural resources of the places they inhabit.

Nevertheless, the capacities of public servants in relation to the Nagoya Protocol (ABS) will have to be further strengthened in order to familiarize them with the instrument and its implications. Though there is qualified staff with experience in indigenous issues, their capacities will have to be strengthened in relation to ABS.

Considering that the indigenous peoples need training in this area, consideration should be given to the strengthening of national institutions, increasing the number of qualified public servants, and creating specific areas to advise indigenous peoples on an on-going basis in relation to the implementation of the Protocol. Therefore, our country will have to double its efforts to build the capacities of the indigenous peoples in relation to the issues addressed by the Convention on Biological Diversity and, specifically, in relation to the Nagoya Protocol.

As regards to prior informed consent (PIC) of the indigenous peoples and communities, Mexico could establish a specific procedure to obtain the prior informed consent of the indigenous peoples and communities according to the provisions of the Nagoya Protocol through its Indigenous Involvement and Consultation Office, which reports to the Planning Unit of the National Commission for the Development of Indigenous Peoples, in charge of the Indigenous Consultation System.

The Indigenous Consultation System is a methodological and technical procedure which allows indigenous peoples and communities to be consulted, by way of their institutions and representative authorities, regarding legislative or administrative measures that may affect them. This System should be strengthened in relation to the Protocol as necessary.

**Measures to assist in the capacity-building, capacity development and strengthening of human resources and institutional capacities in developing countries**

Even when our country is considered a country with an emergent economy, it would be relevant to create specific areas of attention targeting the issues addressed in the Nagoya Protocol (ABS), in order to further develop already existing measures and create new institutional capacities.

At the national level, Mexico is analyzing the issue of the implementation of benefit-sharing, considering that the Mexican State has sovereign rights in relation to its genetic resources and that, in the specific case of genetic resources and associated traditional knowledge, benefits should also be shared with the communities possessing such traditional knowledge.

As regards to prior informed consent, both the provider country and the indigenous or local community possessing associated traditional knowledge should be taken into account. Nevertheless, this issue raises the following questions:

- If the traditional knowledge is in the public domain, should prior informed consent be obtained?

- How will the origin of such TK be established for the purposes of benefit-sharing?
- Would it be appropriate to think about a common benefit-sharing fund for all the indigenous and local communities?
- In the case of PIC when associated traditional knowledge is used, shall terms be established based on the results of the Indigenous Consultation, and will the same terms apply to all the indigenous communities?

In relation to the establishment of minimum conditions to grant access, access for research and non-commercial purposes should be taken into account, as well as change of uses clauses that make benefit-sharing mandatory in case the use is changed.

In order to create conditions to promote and foster research, Article 8 of the Protocol stipulates the obligation to create conditions to promote and encourage research based on genetic resources, which includes granting of facilitated access. This facilitated access shall be understood and established by way of measures for quick and simple access to genetic resources for these purposes; therefore, we should consider:

- That the facilitated access shall not stipulate a binding obligation to establish mutual agreed terms at the time of access.
- This shall be balanced with the need to establish the obligation to notify the competent authority regarding change of intent and, in that case, the obligation to establish mutually agreed terms.

In spite of this, Mexico believes that it is necessary to review its institutional capacity for the implementation of the Protocol at the federal level, and considers internally the following questions:

1. Create a new institution?
2. How will compliance related to the certificate be achieved?
3. What do we need to issue this certificate?
4. How will the ABS clearing-house work?
5. Who will be our national competent authority/institution in relation to PIC and MAT?

### **Measures to raise awareness of the importance of genetic resources and traditional knowledge associated with genetic resources, and related access and benefit-sharing issues.**

Mexico will require new and greater human and financial resources in order to build capacities among the indigenous population regarding the advantages of the Protocol, as well as its dissemination by way of Regional Workshops.

On the other hand, the indigenous peoples of Mexico, as main stakeholders in its development, will need to be trained in this field, so that they can knowingly be the main actors in areas such as access to their associated traditional knowledge, the decision to grant their PIC or not, the creation of systems to grant PIC within the communities, the election of their representatives, and the process of securing and sharing of benefits, among others. To this end, Mexico is considering Micro-regional or Municipal Workshops, so that indigenous peoples may take part in the negotiation of the required contracts, especially with regards to mutually agreed terms for benefit-sharing.

Finally, in relation to the “Modalities of operation of the ABS Clearing-House, including reports on its activities, Article 14, paragraph 4” of Annex 1, Mexico suggests the following measures to increase knowledge and awareness in this area:

- Development of information brochures.
- Making laboratory companies aware of the Nagoya Protocol on Access and Benefit-Sharing and its implications.
- Training and dissemination of information among indigenous and local communities.