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### OPEN-ENDED EXPERT WORKSHOP ON CAPACITY-BUILDING FOR ACCESS TO GENETIC RESOURCES AND BENEFIT-SHARING

Montreal, 2-4 December 2002

Items 3-4 of the provisional agenda\*

### **CAPACITY-BUILDING FOR ACCESS TO GENETIC RESOURCES AND BENEFIT-SHARING: SYNTHESIS OF SUBMISSIONS RECEIVED ON NEEDS, PRIORITIES AND EXISTING INITIATIVES, AND ADDITIONAL ELEMENTS FOR CONSIDERATION IN THE DEVELOPMENT OF AN ACTION PLAN**

*Note by the Executive Secretary*

#### **I. INTRODUCTION**

1. The present report has been prepared in response to paragraph 6 of decision VI/24 B of the Conference of the Parties, by which the Executive Secretary was requested “to prepare a report for the workshop on capacity-building, providing a compilation of needs and priorities of countries, and ongoing capacity-building activities on access and benefit-sharing, with a view to developing an action plan for capacity-building on access and benefit-sharing which responds to the needs of Parties, focuses on priority areas and also complements capacity-building efforts under way in the area of access and benefit-sharing”.

2. In paragraph 3 of decision VI/24 B, the Conference of the Parties invited Parties and indigenous and local communities to provide to the Executive Secretary information regarding capacity-building needs, priorities and existing initiatives for capacity-building for access to genetic resources and benefit-sharing. In paragraph 4 of the same decision, the Conference of the Parties also invited relevant intergovernmental organizations, non-governmental organizations and the private sector to provide information regarding existing initiatives and activities for access to genetic resources and benefit-sharing. By separate notifications dated 27 June and 3 July 2002, the Executive Secretary invited respectively Parties and all relevant organizations, regional organizations, non-governmental organisations, indigenous and local communities and the private sector to provide this information to the Secretariat by 1 September 2002. As of 15 October 2002, 24 contributions had been received from 18 Parties and 6 organizations, including submissions provided prior to the sixth meeting of the Conference of the Parties. The full texts of the submissions received are available as an information document (UNEP/CBD/ABS/EW-CB/1/INF/2).

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3. This report has been prepared by the Secretariat in order to assist the Expert Workshop in the further development of the draft elements for an Action Plan on Capacity-building for Access and Benefit-sharing. Section II provides background information with respect to the consideration of capacity-building for access to genetic resources and benefit-sharing under the Convention process. Sections III to VI provide a synthesis of submissions provided by Parties and relevant organisations prior to and following the sixth meeting of the Conference of the Parties. More specifically, section III addresses priority areas requiring capacity-building to assist with the implementation of access and benefit-sharing arrangements, section IV reviews existing expertise relevant to capacity-building for access and benefit-sharing, section V provides an illustration of ongoing capacity-building activities related to access and benefit-sharing, and section VI addresses the potential role of various institutions in the implementation of the Action Plan. Additional elements for consideration in the development of the Action Plan are included in section VII. Section VIII contains conclusions and recommendations for consideration by the Expert Workshop.

## II. BACKGROUND

4. In paragraph 14 of decision V/26 A, the Conference of the Parties noted “that further development of capacities regarding all aspects of access and benefit-sharing arrangements is required for all stakeholders, including local governments, academic institutions, and indigenous and local communities, and that key capacity-building needs include:

- (a) Assessment and inventory of biological resources as well as information management;
- (b) Contract negotiation skills;
- (c) Legal drafting skills for development of access and benefit-sharing measures;
- (d) Means for the protection of traditional knowledge associated with genetic resources.”

5. At its second meeting, in March 2001, the Panel of Experts on Access and Benefit-sharing established by the Conference of the Parties in its decision IV/8 recommended that high priority should be placed on capacity-building and underlined that capacity-building should be the essence of the work on access and benefit-sharing under the Convention on Biological Diversity and should be operationalized. It also stressed the need for increased awareness of the importance of this area, nationally at all levels, from government to local communities; the need for funding and for the development of action plans for capacity-building on access and benefit-sharing with specific indicators, identified milestones, time-frames, roles, donors, drivers; and the need for monitoring and evaluation of progress in building capacity (see UNEP/CBD/WG-ABS/1/2, paras. 46-50).

6. As suggested by the Panel of Experts and in response to paragraph 11 of decision V/26 A, the Ad Hoc Open-ended Working Group on Access and Benefit-sharing, which met in October 2001, considered issues of capacity-building and developed draft elements of an action plan for capacity-building. In its recommendation 2A on capacity-building, the Working Group requested the Executive Secretary, in consultation with the Bureau of the Conference of the Parties, to convene, as soon as possible and depending on voluntary financial contributions by Parties and other donors, an open-ended expert workshop on capacity-building for access to genetic resources and benefit-sharing. The workshop was to further develop draft elements for an action plan on capacity-building for access and benefit-sharing, for consideration by the Conference of the Parties at its sixth meeting (UNEP/CBD/COP/6/6, annex, recommendation 2 A, para. 1).

7. Because the voluntary funding required was not forthcoming, it was not possible to hold the Workshop before the sixth meeting of the Conference of the Parties. However, at that meeting, the Conference of the Parties reconfirmed this request in decision VI/24 B and decided:

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“[To] convene an Open-ended Expert Workshop on Capacity-building for Access to Genetic Resources and Benefit-sharing. The Workshop will be open to participation by representatives including experts, nominated by Governments and regional economic integration organizations; as well as representatives of relevant intergovernmental organisations, and indigenous and local communities. The Workshop should further develop the draft elements for an Action Plan on Capacity-building for Access and Benefit-sharing annexed to the present decision.”

8. Against this background, experts are invited to further develop an Action Plan on Capacity-building for Access to Genetic Resources and Benefit-sharing, taking into account the capacity-building needs and priorities identified by Parties and stakeholders, existing initiatives and other relevant documentation.

### **III. PRIORITY AREAS REQUIRING CAPACITY-BUILDING TO ASSIST WITH THE IMPLEMENTATION OF ACCESS AND BENEFIT-SHARING ARRANGEMENTS**

9. In order to assist Parties and relevant organizations to identify their needs and priorities and the ongoing capacity-building activities related to access and benefit-sharing, a questionnaire was prepared by the Secretariat and annexed to the notifications sent to Parties and relevant organizations requesting relevant information. The questionnaire is reproduced on pages 4-6 of the note of the Executive Secretary presenting the compilation of submissions on needs and priorities of Parties and information on existing initiatives on capacity-building for access and benefit-sharing (UNEP/CBD/ABS/EW-CB/1/INF/2). Under question I.A., Parties and relevant organizations were requested to identify the three top priority areas requiring capacity-building in their country to assist with the implementation of ABS arrangements. Twelve Parties replied to this question in their submissions to the Secretariat.

10. Because of the limited number of submissions received, it is not possible to draw general conclusions. Nevertheless, based on these responses, the following priorities emerged:

(a) The development of national access and benefit-sharing policy, administrative and legislative measures was seen as the top priority for the large majority of respondent Parties;

(b) Assessment, inventory and monitoring of biological resources and traditional knowledge including taxonomic capacity was the second most frequently cited priority area;

(c) Development of information systems for information management and exchange was the third area most frequently mentioned, followed closely by the valuation of genetic resources and market information, including production and marketing strategies.

11. A number of Parties pointed to the difficulty of prioritizing areas requiring capacity-building, since all areas identified in the draft Action Plan on Capacity-building for Access and Benefit-sharing equally require urgent attention.

12. A scoping meeting on capacity-building approaches for access to genetic resources and benefit-sharing was organized in Kuala-Lumpur from 7 to 9 October 2002 by United Nations University/Institute of Advanced Studies in collaboration with the United Nations Environment Programme (UNEP) and the Convention Secretariat. The report of this meeting is available as an information document (UNEP/CBD/ABS/EW-CB/1/INF/1). At the meeting, participants were invited to consider the priorities and needs of countries in terms of capacity-building for access and benefit-sharing. The assessment and inventory of biological resources, information on the potential markets for genetic resources, and the establishment of national regulatory frameworks were all considered as priorities. It was suggested that a number of tools were needed to address these needs and others. In order to ensure a coherent approach in the development of national access and benefit-sharing regimes, it was suggested that the first step should

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be the development of a national strategy for access and benefit-sharing, based on the particular needs and priorities of each country, taking into account a variety of factors such as the potential market for genetic resources under their jurisdiction, scientific and technical capacity, and long term overall economic and environmental objectives. Stress was laid on the need to involve stakeholders, particularly indigenous and local communities in the development of access and benefit-sharing regimes and their implementation. Education and public awareness, training in negotiating skills, scientific and technical capacity, and access to justice were among other needs identified by participants.

#### **IV. EXISTING EXPERTISE RELEVANT TO CAPACITY-BUILDING FOR ACCESS AND BENEFIT-SHARING**

13. Question I.B in the questionnaire prepared by the Secretariat invited Parties to identify the three areas, among key areas for capacity-building for access and benefit-sharing, in which their country had the most expertise and experience to share with others to assist with the implementation of access and benefit-sharing arrangements. Nine Parties responded to this question.

14. Based on these responses, the three areas identified by order of priority, in which countries have the most expertise and experience to share with others to assist in the implementation of access and benefit-sharing arrangements are the following:

- (a) Assessment, inventory and monitoring of biological resources and traditional knowledge, including taxonomic capacity
- (b) Development of national research and development facilities in scientific and technical areas.
- (c) The elaboration and implementation of contractual agreements on access and benefit-sharing

15. The development of national access and benefit-sharing policy, administrative and policy measures was also mentioned in several responses.

#### **V. ONGOING CAPACITY-BUILDING INITIATIVES RELATED TO ACCESS AND BENEFIT-SHARING**

16. A number of initiatives related to capacity-building for access and benefit-sharing are under way. Information regarding existing or planned initiatives submitted by Parties and relevant organizations, in response to question 3 of the questionnaire is set out below. The following list is not meant to be comprehensive but rather illustrative of ongoing or planned initiatives in certain of the key areas for capacity-building listed in section 2 of the draft elements of the Action Plan. It should also be noted that the initiatives referred to below do not cover all key areas for capacity-building included under section 2 of the draft elements of the Action Plan.

##### ***A. Cross-cutting initiatives***

17. The present section describes a number of initiatives that two or more of the following key areas listed under section 2, paragraph 3, of the draft Action Plan:

- (a) Public education and awareness focusing on relevant stakeholders (para. 3(g));
- (b) Strengthening of relevant institutions (para. 3 (a));

(c) Human resource development and training at all levels, including legal drafting skills for development of access to genetic resources and benefit-sharing measures (para. 3 (h));

(d) Development and strengthening capacities of indigenous and local communities for participation in decision-making and implementation (para. 3 (f)); and

(e) Contract negotiation skill (para. 3 (j)).

18. A regional biosprospecting programme is coordinated by the NGO SEARICE (South East Asia Regional Institute for Community Education) with the objective to raise awareness among indigenous and local communities about the impacts of bioprospecting. Furthermore, it aims at enabling them to demand from their Government's regulations on access to genetic resources and an equitable sharing of the benefits arising from them. The local population will be enabled to recognize and detect bioprospecting activities, to document them, to negotiate conditions for access and monitor them while at the same time preserving the integrity of their indigenous knowledge systems. The experiences gained through the project feeds into the discussions regarding the national legislation in the Philippines as well as into the regional negotiation process within the ASEAN Framework Agreement on Access to Biological and Genetic Resources.

19. The German Government, through GTZ, has offered assistance through two sectoral programmes, "Implementing the Biodiversity Convention" and "Managing agrobiodiversity in rural areas" which are specifically designed to provide funding, expertise and advice to developing countries in implementing the Convention on Biological Diversity. As part of these programmes, the development and implementation of access and benefit-sharing legislation is being promoted in model schemes in Asia, Latin America and Africa through individual measures as well as national and regional workshops.

20. In South Africa, the project entitled "Development of guidelines for the implementation of regulations on the access to genetic resources" is intended to support the implementation of the newly passed legislation on the access to genetic resources. Activities planned include the following:

(a) Background studies to be conducted analysing regional and international experiences in implementing access regulations (approval and monitoring, prior informed consent procedure, benefit-sharing mechanisms, transfer of technology) and developing recommendations for implementation in South Africa.

(b) Workshops are also planned with relevant stakeholders in order to induce the necessary consultation process and to prepare the authorities and institutions in charge, on the national as well as on the provincial level. Executing organizations are the Department of Environmental Affairs and Tourism and the IUCN-South Africa.

21. In Bolivia, a project entitled "Implementation of the National Regulations on Access to Genetic Resources" aims to support the ministry, subordinate authorities that have gained in importance in the process of decentralization, and non-governmental organizations when implementing the regulations. The focus of the project is bioprospecting and the establishment of a database on existing genetic resources in Bolivia.

22. A Philippines-German cooperation project entitled "Supporting the Philippines in implementing national access legislation" is expected to end in December 2002. The project aims at strengthening the technical capabilities of the implementing institutions as well as the participating non-governmental and people's organizations. Guidelines to determine bioprospecting fees and benefit-sharing including model agreements for transfer of royalties are being developed. A standard monitoring scheme will also be developed to effectively monitor compliance of researchers to the provisions of Executive Order 247. To be more efficient in dealing with the applications and monitoring of granted access permits a management

information system will be developed and implemented. Training modules for the regional offices in charge of the monitoring of granted access permits will be developed and tested in selected regions.

23. In China, a number of activities of capacity-building activities have been carried out at the national level, including the following:

(a) A national workshop on access to genetic resources and patents was held in December 2001

(b) A training workshop was to take place in October 2002, organised by China State Environmental Protection Administration (SEPA), including participation of officials at the level of the provincial government.

(c) The formulation of national regulation on genetic resources management has been initiated and drafting work has been scheduled by SEPA.

24. The International Plant Genetic Resources Institute (IPGRI) has developed a project proposal entitled "Access and plant genetic resources for food and agriculture: exploring options to implement the International Treaty on Plant Genetic Resources for Food and Agriculture and Article 15.2 of the Convention on Biological Diversity" (March 2002). Further to the adoption of the International Treaty in November 2001 and the adoption of the Bonn Guidelines at the sixth meeting of the Conference of the Parties to the Convention on Biological Diversity, the implementation of appropriate national systems will bring about new challenges. This project is meant to facilitate access to genetic resources for food and agriculture (PGRFA) as a means to promote their conservation and development for the benefit of the world community and in particular the rural poor. The project aims to provide information and a decision-making tool to assist national Governments in evaluating their options in light of their international obligations and their national situations, on the basis of legislative reviews and regional consultations in order to exchange experience and research.

25. The World Intellectual Property Organization (WIPO) is currently in the process of developing a "Toolkit for Intellectual Property Management When Documenting Traditional Knowledge and Associated Biological Resources". The toolkit is intended to enable stakeholders to implement informed intellectual property policy choices when documenting traditional knowledge and associated biological/genetic resources by:

(a) Creating intellectual property awareness and objectives before documentation;

(b) Intellectual property management during the documentation process;

(c) Acquisition, exercise and enforcement of intellectual property rights after documentation of traditional knowledge and associated biological/genetic resources, if desired.

26. The toolkit is to remain in constant evolution as intellectual property frameworks evolve to address traditional knowledge and associated biological/genetic resources and as the intellectual property implications of documentation will consequently change.

27. A project entitled "Support for national measures to regulate access to genetic resources and to promote benefit-sharing", initiated by World-Wide Fund for Nature (WWF), is under way in Cameroon, Fiji and Colombia. The project aims at enhancing the capacity of key stakeholders to implement the access and benefit-sharing provisions of the Convention on Biological Diversity by strengthening core expertise and institutional capacity in the participating countries and ensuring that adequate measures are in place to regulate ABS with the participation of relevant stakeholders. The main beneficiaries will be relevant government officials and institutions dealing with the access and benefit-sharing issues

(including policy makers, practitioners, and researchers), local communities, NGOs and private sector actors. The project is of three years duration.

28. The Foundation for International Environmental Law and Development (FIELD), the South Pacific Regional Environment Programme and the World-Wide Fund for Nature-South Pacific Program (WWF-SPP), collaborated on a Darwin Initiative Project to promote access and benefit-sharing provisions within the Convention on Biological Diversity, in the small island States of the Pacific region. The purpose of the project was to enhance the ability of policy makers in the region to introduce national regulations that safeguard access to genetic resources, and promote the equitable sharing of benefits from those resources. As part of this project, a regional workshop was held in Fiji, in March 2000, where regional guidelines on access to genetic resources were agreed. This regional meeting was followed by two pilot projects in the Cook Islands and Vanuatu, where national level consultation workshops on access to genetic resources and benefit-sharing were held in February and April 2001. <sup>1/</sup>

29. FIELD has recently received funding for a new Darwin Initiative project based in Chile. This project entitled: "Access to genetic resources, benefit-sharing and traditional knowledge in Chile" is carried out in collaboration with Fundacion Sociedades Sustentables. It aims to raise awareness and promote a policy debate concerning access to genetic resources, the equitable sharing of benefits arising from those resources, and the protection of traditional knowledge in Chile, in accordance with the Convention on Biological Diversity. The project will study Chile's legislation and policy on biodiversity and intellectual property rights, including an analysis of existing contractual arrangements giving access to Chile's genetic resources, and including granting intellectual property rights. These studies are to identify the main gaps and needs in the country's legal and institutional framework in this area and to recommend ways of addressing them including consideration of elements of a possible national framework on access to genetic resources. The project will be carried out over a two year period. <sup>2/</sup>

***B. Valuation of genetic resources and market information, including production and marketing strategies***

30. The "valuation of genetic resources and market information, including production and marketing strategies" is listed as a key area for capacity-building under section 2, paragraph 3(c), of the draft Action Plan.

31. The use of genetic resources may generate market income for providers of genetic material if their property rights, including the rights pertaining to the traditional knowledge related to such resources, were strengthened. The creation of markets for genetic resources is often expected to generate substantial conservation incentives. In the light of increasing demand for genetic resources, as a consequence of technological developments and decreasing natural supply of such resources, it is reasonable to assume that the potential for market development may become more important in the future. However, opinions vary on the extent to which this expectation will be substantiated, both theoretically and empirically.

32. As such markets develop, the private economic values of genetic resources will be reflected in the market prices for genetic material or bioprospecting activities. However, some aspects of genetic resources bear characteristics of a so-called public good, for which property rights cannot be defined and, consequently, markets cannot develop. A number of tools exist for the economic valuation of these public components of genetic resources. To further capacity-building on this issue, the Organisation for Economic Development and Co-operation (OECD) has recently published a handbook on the economic valuation of biodiversity, which includes an extensive presentation of available valuation tools. <sup>3/</sup>

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<sup>1/</sup> For further information, see [www.field.org.uk](http://www.field.org.uk)

<sup>2/</sup> For further information see [www.field.org.uk/fieldmain/biodivf/pg11.htm](http://www.field.org.uk/fieldmain/biodivf/pg11.htm).

<sup>3/</sup> OECD (2002): Handbook of Biodiversity Valuation: A Guide for Policy Makers, OECD, Paris.

Selected studies on various aspects of economic valuation have also been published by the OECD.<sup>4/</sup> The work of the OECD has covered the valuation of biodiversity as a whole and is not limited to the valuation of genetic resources.

33. The OECD Working Group on Economic Aspects of Biodiversity is currently carrying out work on a Handbook addressing market creation for biodiversity, including eco-labelling and other forms of information provision that foster the marketing of biodiversity-related goods and services.

34. Furthermore, in the area of production and marketing strategies, the BIOTRADE Initiative, a programme of the United Nations Conference on Trade and Development (UNCTAD), promotes trade and investment in biodiversity-based products and services in developing countries to further sustainable development in line with the three objectives of the Convention. BIOTRADE assists developing countries and partner organizations to create an enabling environment for the development and strengthening of biodiversity-related sectors by building partnerships with key actors, promoting sustainable business ventures, and providing inputs for policy-making.<sup>5/</sup> Beneficiaries of the Initiative are the public and private sectors, academia, local and indigenous communities, non-governmental organizations, and other institutions in developing countries working towards sustainable use of biodiversity under the principles of the Convention on Biological Diversity.

35. Although the scope of the BIOTRADE initiative is not limited to genetic resources, some of their activities may contribute to building capacity in order to develop market strategies at the regional, national and local level based on facilitated access to genetic resources and the fair and equitable sharing of their benefits.

36. At the World Summit on Sustainable Development, UNCTAD BIOTRADE, together with various partner organizations, launched a number of partnerships in support of trade of products and services derived from biodiversity. The partnerships have been included as type 2 outcomes of the WSSD and complement ongoing activities that are being developed at the national level. Two partnerships are particularly relevant to capacity building for sustainable use, access to genetic resources and benefit-sharing: the Andean BIOTRADE Programme and the BIOTRADE Facilitation Programme.

37. The Andean BIOTRADE aims to strengthen BIOTRADE country programmes of Bolivia, Colombia, Ecuador, Peru and Venezuela and assist in the implementation of the Andean Biodiversity Strategy while developing biodiversity-related sectors and bio-businesses. Regional cooperation will be encouraged by experience sharing among BIOTRADE programmes. It will introduce the notion of sustainability to biodiversity-related businesses and familiarize local producers and communities with sound business practices. This partnership brings together UNCTAD, the Andean Community, based in Lima, and the Andean Development Corporation, based in Caracas.

38. The BioTrade Facilitation Programme for Latin America, Africa and Asia promotes access to foreign markets, for example through matchmaking between enterprises, product development, certification and support of participation in trade fairs. The partnership involves UNCTAD and the International Trade Centre UNCTAD/WTO (ITC), in cooperation with the Dutch Centre for the Promotion of Imports from Developing Countries, the Swiss Import Promotion Programme and BIOTRADE partners. It also involves regional partners such as the Bolsa Amazonia in Belem, Brazil, Southern African Natural Products Trade Association (SANProTA) in Southern Africa, among others.

39. Finally, with respect to the examination of markets for genetic resources, Spain has indicated in its submission that it could eventually evaluate, through the Office of Patents, what is being patented in

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<sup>4/</sup> OECD (2001): Valuation of Biodiversity Benefits. Selected Studies. OECD, Paris.

<sup>5/</sup> More information is available at [www.biotrade.org](http://www.biotrade.org)

the area of genetic resources. This would provide indicators with respect to the interests of industries, the demand and existing markets.

**C. Assessment, inventory and monitoring of biological resources, and traditional knowledge including taxonomic capacity, within the context of the Global Taxonomy Initiative**

40. “Assessment, inventory and monitoring of biological resources, and traditional knowledge including taxonomic capacity, within the context of the GTI” is listed in paragraph 3 (b) of the draft Action Plan as a key area for capacity-building.

41. In decision VI/8 on the Global Taxonomy Initiative (GTI), the Conference of the Parties endorsed the programme of work for the GTI. Access and benefit-sharing is addressed in planned activity 14 under operational objective 5. The primary goal of the GTI is to assist countries in carrying out the inventory of biological resources in a timely and efficient manner. Effective information management being a major element in increasing capacity to properly inventory and access biological resource information, a key element of the GTI is the development of appropriate information-technology tools to allow access to data, as well as to provide efficient entry of new information generated from any increased knowledge. Outputs will include interactive catalogues of material available, linked to taxonomic collection in herbaria and museums. A series of country-driven projects could be carried out, combining the development of basic taxonomic capacity and an improved information base on biological resources.

42. In China, inventories of genetic resources for many crops have been completed during the past years and the National Seed Bank has collected over 350,000 accessions for germplasms of crops. A nationwide project of data collection and inventory-organizing for genetic resources is under way and it is estimated that a comprehensive background report for genetic resources will be drafted by the end of 2002.

43. In its submission, Switzerland has suggested that the Swiss Biodiversity Forum may be involved as a partner in the area of assessment and inventory of biological resources. A significant number of Swiss academic and research institutions have been actively involved in inventory and taxonomy of genetic resources. The Task Force “Systematics and Taxonomy” of the Swiss Academy of Sciences is presently establishing an inventory of research, teaching activities and expertise in these two areas in Switzerland. The Academy has also established the Swiss Biodiversity Forum <sup>6/</sup> to improve coordination and facilitate communication between biodiversity researchers, nature conservation institutions and federal and local authorities.

44. With respect to the inventory and monitoring of traditional knowledge, a number of initiatives are currently under way at the country level. Countries, such as China, India and Venezuela have developed traditional knowledge databases which are intended to assist countries to protect their traditional knowledge. For example, in India, in order to prevent unauthorized bioprospecting, a Traditional Knowledge Digital Library of Ayurveda has been set up by the National Institute of Science Communication of the Indian Council for Scientific and Industrial Research (CSIR).

45. The World Intellectual Property Organization has developed an online portal of traditional knowledge databases, which provides hyperlinks to samples of national databases compiled by certain WIPO member States. <sup>7/</sup>

46. In addition, with respect to the inventory of traditional knowledge, it is worth noting that, at its sixth meeting, the Conference of the Parties, in decision VI/10, on Article 8(j) and related provisions,

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<sup>6/</sup> See [www.biodiversity.unibe.ch](http://www.biodiversity.unibe.ch).

<sup>7/</sup> For further information: [www.wipo.int/globalissues/databases/tkportal/indeed.html](http://www.wipo.int/globalissues/databases/tkportal/indeed.html).

decided that a composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biodiversity should be prepared. Among other issues, the composite report is to assess the state of retention of traditional biodiversity-related knowledge. This report will provide information relevant to the inventory of traditional knowledge at the global level.

***D. Scientific and technical areas, including technology transfer relevant to access to and use of genetic resources and benefit-sharing***

47. Another key area for capacity-building identified in paragraph 3 (l) of the draft Action Plan for capacity-building is “Scientific and technical areas, including technology transfer relevant to access to and use of genetic resources and benefit-sharing”.

48. In Japan, the Biological Resource Center of the National Institute of Technology and Evaluation, which has a mandate to support biotechnology by supplying microbiological resources to the scientific community, also provides training courses and cooperative research programmes on microbiology and molecular biology and promotes technology transfer to South-east Asian countries. A seed bank project was also put in place in Myanmar as well as genetic resource conservation projects in Pakistan, Chile and Sri Lanka.

***E. Other initiatives***

49. The following initiatives relate to capacity-building for access and benefit-sharing although they do not necessarily address the key areas for capacity-building for access and benefit-sharing in section 2 of the draft Action Plan.

50. Switzerland is planning to launch a programme to develop a certification pilot system for bioprospecting activities and assess its practicability through case studies involving different stakeholders. The outcome of this programme could serve as a tool to support capacity-building measures in areas like assessment and monitoring of implementation of obligations under the Convention on Biological Diversity. Switzerland will keep other Parties informed through the clearing-house mechanism on progress and experience gained in this programme.

51. With respect to the private sector, a survey of private sector capacity-building initiatives was carried out by BioteCanada in 2001 among sectors involved in agricultural biotechnology. The survey is indicative of the types of capacity building initiatives with which the private sector has been involved in recent years and a number of these initiatives have focused on access and benefit-sharing. These projects vary in scope and subject, however they are all designed to build capacity for biotechnology and biosafety regulation – for safe and beneficial use of genetic resources. Examples provided include:

(a) Institutional capacity-building, such as exchanges and study tours for regulators and research and development projects;

(b) Information exchange and data management, such as training workshops.

(c) Awareness, participation and education, such as dialogues and public awareness seminars; and

(d) Technology transfer, including the transfer and propagation of products enhanced through biotechnology in developing countries, and technology required to develop other products.

52. The United Nations Development Programme (UNDP), in its capacity as one of the implementing agencies of the Global Environment Facility (GEF), has assisted 104 countries in accessing GEF

financing for enabling activities in support of their commitments under the Convention on Biological Diversity, including planning efforts relating to access and benefit-sharing.

53. A large number of the UNDP regular and GEF-funded projects include a strong focus on community-based natural resources management and examples were provided of UNDP projects carried out since 1991 that include significant components dealing with access and benefit-sharing.

54. UNDP highlighted its special strengths and abilities with respect to capacity-building for access and benefit-sharing as the following:

(a) Local-level capacity building for sustainable use, valuation, management, production and marketing of genetic resources, including the protection of indigenous knowledge and access to resources;

(b) National-level capacity building to improve inter-institutional and inter-sectoral coordination and enable knowledge mobilization and the creation of an enabling environment for access and benefit-sharing at the country level.

55. The World Bank supports the conservation and utilization of plant genetic resources through its lending programme for agricultural research and through its active support and leadership to the Consultative Group on International Agricultural Research (CGIAR). Lending programmes in a number of countries have specific components related to genetic resources. For example, an agricultural-research loan to Peru is supporting the development of a strategic program on conservation, management and utilization of genetic resources. Competitive grant programmes supported by the Bank are also strengthening conservation and utilization of genetic resources in Brazil, Colombia, Croatia, and Ecuador.

56. As part of its support to natural resources management and conservation, an active effort is being made to mainstream biodiversity into the Bank's lending for agriculture and the environment. The World Bank has invested in 226 biodiversity-related projects up to 1999, and over 100 biodiversity-related projects were in the pipeline for 2001 and beyond. In total, these activities are taking place in 85 countries and 10 regional multi-country efforts. The Bank, jointly with the Swedish International Development Agency (SIDA), has completed a study on managing global genetic resources, focusing on:

(a) Harmonizing national policies related to genetic resources;

(b) Analysing technical and economic implications associated with policy decisions; and

(c) Suggesting policy options to developing and industrialized countries.

The final report is being used in a number of meetings on discussions of national policies on genetic resources.

57. Based on this preliminary survey of capacity-building initiatives, it would seem that the bulk of capacity-building activities have focused on issues related to the development of national access and benefit-sharing regimes, such as public education and awareness, human resource development of Governments and stakeholders, including indigenous and local communities, and institutional strengthening. It is also interesting to note that most of these activities have been carried out in countries which already have or are in the process of developing access and benefit-sharing legislation or policy framework, such as the Philippines, Bolivia, South-Africa and Fiji. However, few capacity-building activities seem to have been carried out in: scientific and technical areas; the development of information systems for information management and exchange; and, funding and resource management. Finally, most projects have been carried out by intergovernmental organizations, non-governmental organizations and governmental development agencies.

## **VI. ROLE OF VARIOUS INSTITUTIONS IN THE IMPLEMENTATION OF THE ACTION PLAN**

58. The following provides a synthesis of responses received by Parties regarding the role of various institutions on capacity-building for access and benefit-sharing. More details are found in the compilation of submissions (UNEP/CBD/ABS/EW-CB/1/INF/2).

### **A. Secretariat of the Convention on Biological Diversity**

59. It was generally considered that the Convention Secretariat should act as coordinator of capacity-building activities carried out by various organizations and should facilitate access to and sharing of information on access and benefit-sharing through appropriate means.

### **B. Global Environment Facility (GEF)**

60. The GEF is considered as the main funding mechanism for capacity-building related activities on access and benefit-sharing. It was also considered that the GEF could provide technical expertise and should identify priorities. One country suggested that specific recommendations or guidelines to facilitate access to GEF funding should be developed.

61. It is important to note that in decision VI/17, paragraph 10 (m), the Conference of the Parties provides guidance to the GEF in the provision of financial resources and states that the GEF as the institutional structure operating the financial mechanism should provide financial resources for projects that assist with the implementation of the Action Plan on Capacity-building for Access and Benefit-sharing in support of the implementation of the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization.

### **C. Other bilateral and multilateral donors**

62. Bilateral and multilateral donors should provide financial support and technical assistance for capacity-building on access and benefit-sharing.

### **D. Intergovernmental organizations**

63. Various suggestions regarding the potential role of intergovernmental organizations were put forward, including:

- (a) Facilitation of technology transfer;
- (b) Technical contributions;
- (c) Collaboration in areas of policy and priority setting, development of appropriate legislation and regulatory frameworks and assistance in monitoring activities;
- (d) Advocacy and leadership for the region in the area under question;
- (e) Organization of conferences and workshops,
- (f) Exchange of information

### **E. Regional networks**

64. It was suggested that the establishment of regional networks should be promoted. These regional networks could assume the following roles:

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- (a) International cooperation and trade;
- (b) Exchange of experience, information;
- (c) Coordination of activities and sharing of experiences;
- (d) Participation in implementation, organization of conferences and workshops, exchange of information.

***F. Non-governmental organizations***

65. Non-governmental organizations may provide:
- (a) Education, awareness and training, including of local and indigenous communities;
  - (b) Information and expertise;
  - (c) Technical contribution based on specific experience;
  - (d) Participation in implementation.

***F. Private sector/Industry***

66. It was suggested that the private sector/industry could be involved in:
- (a) Venture capital and trust funds;
  - (b) Funding;
  - (c) Assisting with policy formulation, institutional strengthening and public awareness programmes;
  - (d) Research and technology generation;
  - (e) Sharing of information and experience;
  - (f) Providing financial support and participating in implementation.

***G. Scientific/Academic institutions***

67. It was suggested that scientific/academic institutions have a role to play in:
- (a) Research, training, monitoring and evaluation;
  - (b) Clarification of Intellectual property rights related issues;
  - (c) Development of technological innovations that would enable countries to benefit from the utilization of their biological resources and traditional knowledge;
  - (d) Research, development and information exchange;
  - (e) Preparation of studies, organization of conferences and workshops.

68. It was also suggested that a national biodiversity fund could be established by countries in order to provide financial support for the activities connected with protection, assessment and use of genetic resources.

69. Indigenous and local communities may also have a role to play in capacity-building, particularly in building the capacities of their own people, and may be involved in a number of activities, including the following:

- (a) Education and public awareness;
- (b) Training;
- (c) Information exchange;
- (d) Research;
- (e) Providing expertise in the area of traditional knowledge related to genetic resources.

## **VII. ADDITIONAL ELEMENTS FOR CONSIDERATION IN THE DRAFT ACTION PLAN ON CAPACITY-BUILDING FOR ACCESS AND BENEFIT-SHARING**

70. As requested by the Conference of the Parties in decision VI/24 B, paragraph 1, the Workshop should further develop the draft elements for an Action Plan on Capacity-building for Access and Benefit-sharing. The draft elements of the Action Plan as adopted by the Conference of the Parties are annexed to the present note, for ease of reference.

71. In their deliberations, participants may wish to take into account the following additional elements, which could be reflected in the Action Plan on Capacity-building for Access and Benefit-sharing.

### **A. *Participation of stakeholders***

72. Participants in the Workshop may wish to address the participation of stakeholders in a separate section of the Action Plan as a cross-cutting issue.

#### *1. Stakeholders in general*

73. The specificities and roles of different stakeholders could be considered. For instance, botanic gardens, academics, the scientific community, gene banks, could all be involved at different levels to address the needs which arise from the access and use of various types of genetic resources. It was suggested that the participation of the private sector/industry and even more importantly of scientific and academic institution as well as botanical gardens should be strengthened, in particular within the context of the Global Taxonomy Initiative.

74. Certain stakeholders may be beneficiaries of capacity-building initiatives while other stakeholders, such as representatives of the private sector, may be involved in delivering capacity-building activities under the framework of the action plan.

75. Enhancing the participation of stakeholders was identified by the scoping meeting on capacity-building for access and benefit-sharing referred to above as an area where more capacity-building was required. <sup>8/</sup> It was also recognized that a large variety of stakeholders were involved in access to genetic

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<sup>8/</sup> See UNEP/CBD/ABS/EW-CB/1/INF/1.

resources and benefit-sharing and that their specific needs and/or strengths needed to be taken into consideration. It was considered that the effectiveness of access and benefit-sharing regimes at the local, national and international levels depended significantly upon the participation of informed right holders and stakeholders. Capacity-building is required at all levels to improve the understanding of international and national obligations and commitments. The priority needs, gaps in capacity and tools for capacity-building may vary depending on the stakeholders.

## *2. The special case of indigenous and local communities*

76. Participants in the Workshop may wish to take into consideration the particular situation of local and indigenous communities in order to encourage their participation in capacity-building activities. Indeed indigenous and local community representatives may be both beneficiaries of capacity-building initiatives and contribute to building capacity.

77. Indigenous and local community members are holders of valuable knowledge, innovations and practices relating to genetic resources. Thus, access to genetic resources and benefit-sharing arising out of the use of genetic resources cannot be separated from the question of the sharing of the benefits arising from the utilization of traditional knowledge, innovations and practices.

78. As part of the programme of work on Article 8(j) and related provisions, the need for participation of indigenous and local communities in policy formulation and implementation regarding access to genetic resources has been emphasized. Capacity-building is needed in order to achieve the objective of the programme of work as regards participation.

### *B. Collaboration with key partners*

79. Collaboration with key partners could also be addressed in a separate section of the Action Plan. The partners and actors involved in delivering capacity-building activities may vary depending on the specific activity to be carried out and also depending on whether the activities are to be carried out at the international, regional, subregional or national levels.

80. As highlighted in section VI above, a number of institutions may be involved in carrying out capacity-building activities, namely the Secretariat of the Convention on Biological Diversity, the Global Environment Facility, other bilateral and multilateral donors, intergovernmental organizations, regional networks, non-governmental organizations, private sector/industry, and scientific/academic institutions.

81. Key actors having a role to play in capacity-building activities at the national level may include Government nominated experts included in the Convention's roster of experts on access and benefit-sharing, competent national authorities and national focal points. National experts could also be involved in regional, subregional or international capacity-building activities.

### *C. Relationship with relevant international regimes*

82. In order for countries to implement national systems that are coherent with their international obligations, capacity-building activities will need to take into account relevant international or regional developments which may have a bearing on national strategies and policy development related to access and benefit-sharing. The Action Plan could therefore usefully include reference to relevant developments related to access to genetic resources and benefit-sharing in addition to the Bonn Guidelines, such as the adoption of the International Treaty on Plant Genetic Resources for Food and Agriculture by the Conference of the Food and Agriculture Organization of the United Nations (FAO) in November 2001.

83. The Treaty covers all plant genetic resources relevant to food and agriculture. One of the main components of this treaty is the Multilateral System of Facilitated Access and Benefit-sharing. Capacity-building programmes could therefore be implemented in close co-operation with existing national,

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regional or intergovernmental entities involved in the implementation of the FAO Treaty in order to promote synergies both at technical and policy level as well as efficient use of available resources.

84. Relevant work carried out by the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore may also be taken into account, as appropriate.

***D. The role of bioprospecting in commercial and non-commercial endeavours as a new key area under section 2 of the draft Action Plan***

85. In response to the notification of 3 July 2002 by the Secretariat, the Task Force on Access and Benefit-sharing of the International Chamber of Commerce (ICC) suggested that further understanding of the role of bioprospecting in commercial and non-commercial endeavours (including of cost, screening and development processes and timelines, and of commercial aspects related to any “discoveries”) is essential in order to establish and implement workable and realistic frameworks for access and to enable broad societal benefits to be realized. In the view of this Task Force, order and predictability in access and benefit-sharing arrangements are essential to facilitate the processes needed to yield benefits.

86. According to the Task Force, Governments, local and indigenous communities, local centres of scientific expertise and others with a potential role in realizing benefits from genetic resources, should be given the opportunity to understand the processes through which the potential of these resources comes to be understood and through which value is added in the use of genetic resources through capacity-building initiatives. Understanding these processes could play a role in responsible use of genetic resources.

87. These suggestions could be taken into account in the Action Plan by including them under section 2 of the existing draft elements of the Action Plan for capacity-building.

***E. Instruments or tools for capacity-building***

88. In order to further refine the Action Plan and to go a step further towards the implementation of capacity-building activities, Parties may wish to consider tools or instruments which would be adapted to the different needs of countries. For example, compilations of model laws may be most appropriate when developing national regulatory frameworks for access and benefit-sharing, while training may be most appropriate for the enhanced participation of stakeholders.

89. The Scoping Meeting on Capacity-Building Approaches for Access to Genetic Resources and Benefit-sharing noted that a range of tools were required to meet capacity-building needs and agreed on the basic set of tools that were required. This set of tools includes: compilations of existing instruments and assessments of these instruments, case studies, manuals on intellectual property rights measures and other mechanisms to reward innovation, model annotated regulatory frameworks, compilations of real and/or model contracts or material transfer agreements, information about registration and certification systems and other novel mechanisms for access and benefit-sharing, seminars, workshops and training sessions; training manuals and programmes; exchange programmes; developing alliances, networks and partnerships, clearing house mechanisms at international, regional, national and local levels; audio-visual and other multimedia material; and educational material. It was noted that in order for tools to be effective they must be designed for a targeted audience.

## **VIII. CONCLUSIONS AND RECOMMENDATIONS**

90. When considering the further development of the Action Plan annexed to the present document, participants may wish to consider:

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- (a) Adding new sections to the Action Plan covering the following:
  - (i) Participation of stakeholders;
  - (ii) Collaboration with key partners;
  - (iii) Relationship with relevant international regimes;
- (b) Adding to the list of key areas for capacity-building under section 2:
  - The role of bioprospecting in commercial and non-commercial endeavours; cost, screening and development processes and timelines; and commercial aspects related to any “discoveries”

91. Participants may also wish to consider the following further steps:

(a) The establishment of a coordination mechanism within the Convention Secretariat for the implementation of the Action Plan with a view to promoting partnerships and to maximize complementarities and synergies between various capacity-building initiatives.

(b) Further identification of the extent of coverage and possible gaps in capacity-building initiatives and resources

(c) The use of the clearing-house mechanism of the Convention on Biological Diversity as a platform for the exchange of information among Parties and stakeholders, on:

- (i) Capacity-building needs of Parties;
- (ii) Ongoing initiatives on capacity-building for access and benefit-sharing;
- (iii) Existing expertise in key areas relevant to access and benefit-sharing.

The platform could also assist to coordinate activities among main partners involved in capacity-building activities;

(d) The further exploration of appropriate instruments or tools for capacity-building in the various key areas identified.

*Annex*

**DRAFT ELEMENTS FOR AN ACTION PLAN FOR CAPACITY-BUILDING FOR ACCESS TO GENETIC RESOURCES AND BENEFIT-SHARING**

*(Reproduced from decision VI/24 B of the Conference of the Parties, annex)*

**A. Objective of the Action Plan**

1. The objective of the Action Plan is to facilitate and support the development and strengthening of capacities for the effective implementation of the provisions of the Convention relating to access to genetic resources and benefit-sharing at the local, national, subregional, regional and international levels.
2. To achieve the objective, the Action Plan will provide a framework for identifying country and stakeholder needs, priorities, mechanisms of implementation and sources of funding.

**B. Key areas requiring capacity-building**

3. The following key areas, which require capacity-building initiatives, should be considered in a flexible and transparent manner, based on a demand-driven approach, taking into account the different situations, needs, capabilities and stages of development of each country and should avoid duplication of efforts between various capacity-building initiatives:

- (a) Strengthening of relevant institutions;
- (b) Assessment, inventory and monitoring of biological resources, and traditional knowledge including taxonomic capacity, within the context of the Global Taxonomy Initiative;
- (c) Valuation of genetic resources and market information, including production and marketing strategies;
- (d) Inventory and case-studies of existing legislative measures and development of appropriate legislation, including *sui generis* systems;
- (e) Development of information systems, and information management and exchange, linked with the clearing-house mechanism of the Convention;
- (f) Development and strengthening capacities of indigenous and local communities for participation in decision making and implementation;
- (g) Public education and awareness focusing on relevant stakeholders;
- (h) Human resources development and training at all levels, including legal drafting skills for development of access to genetic resources and benefit-sharing measures;
- (i) Funding and resource management;
- (j) Contract negotiation skills for all relevant stakeholders, in particular indigenous and local communities;
- (k) Means for the protection of traditional knowledge associated with genetic resources;

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(l) Scientific and technical areas, including technology transfer relevant to access to and use of genetic resources and benefit-sharing;

(m) Development of instruments, tools, and indicators to monitor and assess the implementation of capacity-building for access to genetic resources and benefit-sharing at all stages.

### **C. Processes**

4. The following processes and measures should be undertaken:

(a) Awareness raising for the issues at stake and identification of capacity needs at the local, national, subregional, and regional levels, taking into account, as appropriate, the work of the Global Environment Facility on national capacity self-assessment;

(b) Integration of capacity-building for access to genetic resources and benefit-sharing within the framework of national biodiversity strategies and other related initiatives and strategies;

(c) Prioritization at the local, national, and regional levels of the key areas;

(d) Sequencing of actions, including timelines for the operation of capacity-building for access to genetic resources and benefit-sharing;

(e) Identification of existing and planned capacity-building initiatives at the local, national, subregional and regional levels, both public and private, and their coverage including by:

(i) National sources;

(ii) Bilateral sources;

(iii) Regional sources;

(iv) Multilateral agencies;

(v) Other international sources;

(vi) Other stakeholders, in particular indigenous and local communities;

(f) Enhancing synergies and coordination of capacity-building initiatives;

(g) Establishment of indicators for monitoring capacity-building implementation.

### **D. Means of implementation**

5. The following mechanisms could be used for the implementation of capacity-building measures for access to genetic resources and benefit-sharing:

(a) Development of appropriate national regulatory framework;

(b) Scientific and technical cooperation among Parties, and between Parties and relevant multilateral agencies and other organizations through, *inter alia*, the clearing-house mechanism of the Convention;

(c) Information exchange, through the clearing-house mechanism of the Convention, the use of the internet, databases, CD-ROMs, hard copies and workshops;

(d) Identification and dissemination of case-studies and best practices;

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- (e) Regional and subregional collaborative arrangements;
- (f) Coordination between multilateral and bilateral donors and other organizations;
- (g) Development of model agreements and codes of conduct for specific uses, users and sectors;
- (h) Training workshops;
- (i) Full and effective involvement and participation of all relevant stakeholders, in particular indigenous and local communities taking into account the tasks defined within the programme of work on the implementation of Article 8(j) and related provisions of the Convention;
- (j) Funding through the Global Environment Facility and other donors;
- (k) The participation of the private sector as provider of capacity-building in specific areas, for example through collaborative research, transfer of technology and funding;
- (l) The Global Taxonomy Initiative;
- (m) The roster of experts on access to genetic resources and benefit-sharing to be established under the Convention;
- (n) National focal points and competent national authorities.

#### ***E. Coordination***

6. In view of the multiplicity of actors undertaking capacity-building initiatives for access to genetic resources and benefit-sharing, mutual information and coordination should be promoted in order to avoid duplication of effort and to identify existing gaps in coverage. Initiatives for coordination should be encouraged at all levels.

7. The Conference of the Parties should encourage voluntary submissions by Parties and Governments and relevant international organizations on steps taken, including by donors, towards the implementation of capacity-building measures, to be accessible through the clearing-house mechanism of the Convention.

8. Parties may consider including in their national reports information on the implementation of capacity-building measures on access to genetic resources and benefit-sharing.

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