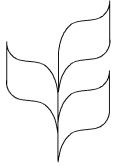




**CBD**



**CONVENTION ON  
BIOLOGICAL DIVERSITY**

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CONFERENCE OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL DIVERSITY

Fourth meeting

Bratislava, Slovakia

4 to 15 May 1998

Item 16.3 of the provisional agenda

Report of the International Workshop

**'Best Practices' for Access to Genetic Resources**

Cordoba, 16 - 17 January 1998

Submission by the European Commission and the Government of Germany

## **International Workshop, Cordoba, 16 - 17 January 1998**

### **'Best Practices' for Access to Genetic Resources<sup>1</sup>**

according to COP Decision III/15 (Buenos Aires, November 1996)

#### **The Cordoba Workshop Findings**

Decision III/ 15 of the Conference of the Parties (COP) to the Convention on Biological Diversity (CBD) "*...encourages Governments and regional economic integration organisations to explore and develop, in collaboration with relevant stakeholders, guidelines and practices to ensure mutual benefits to providers and users of access measures and to implement them effectively at the national, regional or international level, as appropriate*". In response, the Directorate General for Environment, Nuclear Safety and Civil Protection (DG XI) of the European Commission and the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety co-sponsored a workshop on 15 – 16 January 1998 in Cordoba, Spain. A background paper on 'Best Practices for Access to Genetic Resources' served as an entry point to the discussions held in Cordoba. Participants attended in a personal capacity and were selected taking into account the need for regionally balanced participation. 34 experts from Parties to the Convention, the Secretariat of the Convention, non-governmental organisations and the private sector contributed to the discussions. The main findings are the following:

- I The participants agreed that a number of problems are currently hindering the implementation of the CBD provisions on access to genetic resources and benefit-sharing. A number of concerns and potential responses to these concerns of relevance for providers and users of genetic resources were identified:

#### **II Providers**

Participants identified a number of cross-cutting issues:

- confidence
- technical and technological capacities,
- IPRs

These cross cutting issues relate to concerns about access and benefit-sharing as well as responses to these concerns:

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<sup>1</sup> Two international workshops on the CBD and Access to Genetic Resources fostered the discussions:

International Workshop on the Implementation of Art. 15 and 16 CBD, London, February 1996, International Workshop on 'Models of Cooperation between Countries of Origin and the German Pharmaceutical Industry', Oberursel, Germany, August 1996.

**Concerns**

- lack of information/control of genetic resources once outside providers' jurisdiction,
- lack of clarity of the market structure for genetic resources,
- uncertainty as to the value of biological diversity and biological resources,
- unapproved use of genetic resources in academia and ex situ collections,
- lack of negotiating and contractual capacities,
- lack of institutional capacity,
- lack of confidence in existing IPR regimes. Inadequacy of existing IPR regimes to support the implementation of the Convention's objectives.

**Responses**

- ensure the disclosure of the place of origin by putting in place effective tracking measures,
- establish modalities for ensuring evidence of prior informed consent at all stages,
- encourage authorised partnerships between providers and users and among providers and providers,
- encourage the use of adequate material transfer agreements
- users to support BD inventories
- build technological and institutional capacity to add value at source,
- review existing IPR regimes and, if necessary, add to or modify these to make them supportive of the objectives of the CBD,

**III User****Concerns**

- Users need a clear contact point and to know of institutions authorised to grant access to genetic resources in provider countries
- Users need legal certainty on access
- Users need clarity on ownership/ tenure/ related rights
- Access regulations need to distinguish between different genetic resources and different uses (scientific/ commercial)

**Responses**

- Establish a Focal Point and competent authority(ies) with clear responsibilities in determining access applications
- Create a worldwide list of Focal Points and competent authority(ies) to be accessible through the CHM
- Providers authorise relevant institutions to make full Access and Benefit Sharing arrangements (collection; scientific research and commercialisation)
- Providers to offer information on rights such as ownership, tenure et.c.

- Lack of information about the new CBD ethic of obligations for users
- Flexible structures
- Focal Point/ competent authority(ies) in user country for providers' queries
- Governments and other institutions to inform relevant users and providers in their country on the access and benefit-sharing provisions of the CBD
- Need for corporate access and benefit-sharing policies by users
- Elaboration of corporate access and benefit-sharing policies, through
  - promotion by governments,
  - peer pressure, e.g. through professional associations
  - voluntary policies/measures
- Lack of confidence of providers
- Capacity building
- Insufficient capacity of provider countries to implement access and benefit-sharing laws and agreements
- Integration into national biodiversity-strategies
- Inclusion of information of user measures into reporting under the CBD

#### **IV Recommendations**

1.

The participants at the workshop, representing both providers and users of genetic resources, recognised the need to lower the uncertainty surrounding access and benefit-sharing, to build confidence between providers and users and to maintain flexibility.

2.

The participants therefore recommend that the COP should initiate a process to support and guide governments and regional economic integration organisations in the implementation of Decision III/15, para 5. The workshop recommends that the concerns and responses identified in the paragraphs above should constitute a basis for initial work.

**EUROPEAN COMMISSION**

DIRECTORATE-GENERAL XI

ENVIRONMENT, NUCLEAR SAFETY AND CIVIL PROTECTION

Directorate D - Environment quality and natural resources

**XI.D.4 - Global environment: climate change, geosphere, biosphere, energy****The Federal Ministry for the Environment,  
Nature Conservation and Nuclear Safety**Brussels,  
XI.D.4/MJ/sp D(98)Mr Calestous Juma  
Executive Secretary of the  
Convention on Biological Diversity  
WTC  
393, Saint Jacques, Suite 300  
Montreal (Q), Canada H2Y 1N9

Dear Mr Juma,

**Subject: Access to genetic resources/results of Cordoba Workshop 16-17  
January 1998**

Decision III/ 15 of the Conference of the Parties (COP) to the Convention on Biological Diversity (CBD) “...encourages Governments and regional economic integration organisations to explore and develop, in collaboration with relevant stakeholders, guidelines and practices to ensure mutual benefits to providers and users of access measures and to implement them effectively at the national, regional or international level, as appropriate”.

On the basis of the assumption that the implementation of the Convention’s provisions on access to genetic resources are of high importance to the overall implementation of the Convention, and in order to enhance the knowledge basis upon which to take action on this issue, the Directorate General for Environment, Nuclear Safety and Civil Protection (DG XI) of the European Commission and the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety co-sponsored a workshop on 15 – 16 January 1998 in Cordoba, Spain.

Participants, mainly from civil society, were invited in their personal capacity taking due account to the need of a regionally balanced representation. Special attention was given to ensure a broad range of views of both users and providers of genetic resources, including participants dealing with this issue on a practical level.

The workshop (attached) identified a number of concerns and potential responses of a broad range for both providers and users.

Moreover, the discussion during the workshop highlighted the following general points of importance for access to genetic resources:

- the principle of mutually agreed terms is a central aspect of co-operation between providers and users of genetic resources;
- Any guidelines and best practices should facilitate trustful and long-term co-operation of mutual benefit;
- Sharing of benefits can include i.a. scientific and technical co-operation, technology transfer and education know-how transfer, exchange of scientists, participation in research and in results and in the case of successful commercial use economic benefits, e.g. royalties;
- on the provider side, the indigenous and local communities as referred to in article 8 (j) in the CBD should participate directly in the benefits along with the support of the conservation and sustainable use of biological diversity;
- the need for flexibility and the need to distinguish between different genetic resources and uses.

Access to genetic resources and benefit-sharing are closely linked matters and in the cluster of issues to be addressed under the point "Matters related to benefit-sharing" at COP IV, this point is likely to be an important issue.

The Commission and the German Government would like to share the results of the Cordoba Workshop with the other Participants in COP IV in order to further stimulate the debate on this important subject.

We would be grateful if you would make the findings of the Cordoba workshop together with this letter part of the background material for COP IV as an information document.

Electronic Version

C. BAIL

Electronic Version

M. VON WEBSKY