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CONFERENCE OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL  
DIVERSITY

Sixth meeting

The Hague, 7-19 April 2002

Item 16 of the provisional agenda\*

**THEMATIC PROGRAMMES OF WORK—PROGRESS REPORTS ON  
IMPLEMENTATION: BIOLOGICAL DIVERSITY OF INLAND WATERS; MARINE AND  
COASTAL BIOLOGICAL DIVERSITY; BIOLOGICAL DIVERSITY OF DRY AND SUB-  
HUMID LANDS; AND AGRICULTURAL BIOLOGICAL DIVERSITY**

*Note by the Executive Secretary*

*Addendum*

**REPORT ON THE IMPACTS OF THE APPLICATION OF GENETIC USE RESTRICTION  
TECHNOLOGIES ON INDIGENOUS AND LOCAL COMMUNITIES AND FARMERS'  
RIGHTS**

**I. INTRODUCTION**

1. At its fifth meeting, the Conference of the Parties requested the Executive Secretary, in paragraph 29 of decision V/5, to discuss with organizations with relevant expertise and representatives of indigenous and local communities the potential impacts of the application of genetic use restriction technologies (GURTs) on those communities and on Farmers' Rights in keeping with the revision of the International Undertaking on Plant Genetic Resources for Food and Agriculture to keep, use, exchange and sell seed or propagating material and to prepare a report to be considered by the Conference of the Parties.

2. In response to this decision, the Executive Secretary convened an informal consultation on the potential impacts of the application of genetic use restriction technologies on those communities and on Farmers' Rights. The meeting was held in Montreal, on 3 February 2002, prior to the second meeting of the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention.

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\* UNEP/CBD/COP/6/1 and Corr.1/Rev.1.

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3. The report of the informal consultation is being circulated to the Conference of the Parties at its sixth meeting as an information document (UNEP/CBD/COP/6/INF/8).

4. Section II of the present note contains a list of identified potential impacts of the application of genetic use restriction technologies on indigenous and local communities and on Farmer's Rights. Section III contains some recommendations that the Conference of the Parties may wish to consider.

## **II. POTENTIAL IMPACTS OF THE APPLICATION OF GENETIC USE RESTRICTION TECHNOLOGIES ON INDIGENOUS AND LOCAL COMMUNITIES AND ON FARMERS' RIGHTS**

5. The genetic use restriction technologies represent a set of different biotechnologies that are designed and deployed for a variety of goals and may serve industrial, property, environmental, research, or agricultural-production purposes. However, they identified potential impacts on indigenous and local communities and on Farmers' Rights:

(a) Genetic use restriction technologies are an exclusion strategy that would provide technical means to exclude others from the use of given genetic resources outside a legal framework that is socially agreed upon, including Intellectual Property Rights, and might negatively affect subsistence farmers and small- and medium-scale farmers, especially in developing countries;

(b) Promotion of variety-specific genetic use restriction technologies in farming systems is likely to lead to seed security problems. With the risk of concentration in the breeding sector, farmers might become dependent on GURTs-modified seeds and lose ability to save seeds for the following season;

(c) Although genetic use restriction technologies may not disrupt conservation of biodiversity *per se*, they might disrupt the dynamic of use, development, exchange and improvement of genetic resources pools;

(d) By attracting the agricultural research and development further into the private sector, genetic use restriction technologies might create asymmetries in the relationship between the public and private sector in crop research and development. The lack of significant additional public investment in crop breeding for resource-poor farming systems could increase the vulnerability of resource-poor farmers in ways that might affect negatively indigenous and local communities;

(e) Genetic use restriction technologies might constrain the implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture, in particular the provisions of the Treaty dealing with the multilateral system and Farmers' Rights. In this context, genetic use restriction technologies might create asymmetry and inequality in the efforts of the international community towards biological diversity conservation, sustainable agriculture, food security and the recognition of Farmers' Rights;

(f) Some applications of genetic use restriction technologies might violate the spiritual, cultural and cosmological values of indigenous and local communities as well as customary law systems.

## **III. RECOMMENDATIONS**

6. The Conference of the Parties may wish to:

(a) *Establish* a suitable mechanism, such as an expert group, to further analyse the potential impacts of genetic use restriction technologies on indigenous and local communities and on Farmers' Rights, taking into account relevant ongoing work and comments from Parties, international organizations, and indigenous and local communities in order to prepare advice for consideration at its seventh meeting;

(b) Since there is still not enough reliable data available, *reaffirm* paragraph 23 of its decision V/5, which states that, in the current absence of reliable data on genetic use restriction technologies, "products incorporating such technologies should not be approved by Parties for field testing until appropriate scientific data can justify such testing, and for commercial use until appropriate, authorised and strictly controlled scientific assessments with regard to, *inter alia*, their ecological and socio-economic impacts and any adverse effects for biological diversity, food security and human health have been carried out in a transparent manner and the conditions for their safe and beneficial use validated";

(c) *Invite* Parties, other Governments and relevant organizations to protect native species and associated traditional knowledge by paying a particular attention to indigenous and local communities and Farmers' Rights in their implementation of the programme of work on agricultural biological diversity and the Global Strategy for Plant Conservation, in order to promote the sustainable use and *in situ* development of genetic resources;

(d) *Invite* the Food and Agriculture Organization of the United Nations to study the potential impacts of the applications of genetic use restriction technologies in the framework of the International Treaty on Plant Genetic Resources for Food and Agriculture, and to consider genetic use restriction technologies in the further development of the Code of Conduct on Biotechnology as it relates to genetic resources for food and agriculture;

(e) *Invite* the International Union for the Protection of New Varieties of Plants (UPOV), the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization (WIPO) and other relevant organizations to examine, in the context of their work, the specific intellectual property implications of genetic use restriction technologies, particularly in respect of indigenous and local communities.

7. The Conference of the Parties may also wish to *request* the Executive Secretary,

(a) To integrate the issues related to the impacts of genetic use restriction technologies on indigenous and local communities and on Farmers' Rights in the work under the Convention regarding Article 8(j) and related provisions and Article 14, paragraph 2, on liability and redress;

(b) To invite the Food and Agriculture Organization of the United Nations, in collaboration with other organizations to investigate the potential impacts of the applications of genetic use restriction technologies in forestry, livestock and aquatic ecosystems, and to take into account the findings of the these organisations in the development of the relevant programmes of work; and

(c) Given the distinct nature of genetic use restriction technologies and their potential impacts on indigenous and local communities, to invite relevant organizations to examine the applicability of existing, and to explore the need to develop new, legal mechanisms to address the application of genetic use restriction technologies.

