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ACCESS AND BENEFIT-SHARING AS RELATED TO GENETIC RESOURCES

Addendum

RECENT DEVELOPMENTS ON ACCESS AND BENEFIT-SHARING

Note by the Executive Secretary

I. INTRODUCTION

1. The present note has been prepared to report on actions taken by the Executive Secretary in response to recommendations adopted by the Ad Hoc Open-ended Working Group on Access and Benefit-sharing at its meeting in Bonn, from 22 to 26 October 2001. It should be read in conjunction with the progress report by the Executive Secretary on the implementation of decisions V/26 A-C (UNEP/CBD/COP/6/19).

2. By notification dated 29 November 2001, the Executive Secretary invited Parties to take specific actions to implement the recommendations adopted by the Ad Hoc Open-ended Working Group on Access and Benefit-sharing. These actions related, *inter alia*, to:

(a) The development of draft elements regarding the use of terms under paragraph 6 of the draft Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising Out of their Utilization (draft Bonn Guidelines); and

(b) The further development of draft elements for an action plan on capacity-building for access and benefit-sharing.

II. USE OF TERMS

3. In paragraph 2 of its recommendation 1, the Working Group recommended that the Executive Secretary, in consultation with the Bureau of the Conference of the Parties, convene a group of ten

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

experts nominated by Parties to develop draft elements of a decision on paragraph 6 of the draft Bonn Guidelines (i.e., on the use of terms).

4. In a notification dated 29 November 2001, the Executive Secretary invited interested Parties to nominate an expert and to communicate his/her name and curriculum vitae to the Secretariat no later than 31 December 2001. Because of the limited response, a reminder, dated 15 January 2002, was sent by the Executive Secretary extending to 15 February 2002 the deadline for replies.

5. As of 22 February 2002, 25 nominations had been received from Parties and two from non-Parties. On the basis of these nominations, and in consultation with the Bureau, the Secretariat has selected the 10 experts on the basis of their expertise, the need to ensure equitable geographical distribution and with due regard to gender balance, from the following countries: Ethiopia, Nigeria, China, India, Poland, Ukraine, Cuba, Peru, Germany and Switzerland.

6. The experts will work initially through electronic communications with a view to elaborating elements of a decision on the use of terms for the Conference of the Parties.

III. CAPACITY-BUILDING

7. Further to recommendations of the Working Group on Access and Benefit-sharing, by the notification referred to in paragraph 4 above, Parties were invited to communicate to the Executive Secretary information on the needs and priorities of Parties and stakeholders and existing capacity-building initiatives on access and benefit-sharing with a view to providing a basis for the further development of an action plan for capacity-building. This information was to be provided as soon as possible and no later than 31 December 2001, on the basis of the questionnaire reproduced in the annex to the present note. As of 26 February 2001, responses to the questionnaire had been received from Argentina, the Bahamas, Bolivia, Japan, Mongolia, and Spain.

8. The notification also invited contributions by Parties to make it possible to hold the workshop before the sixth meeting of the Conference of the Parties. As of 26 February 2002, the Secretariat had not been notified of any contribution for this purpose.

9. In a similar notification, the Executive Secretary invited relevant international organizations, non-governmental organizations and the private sector, were invited to submit information regarding existing capacity-building initiatives on access and benefit-sharing and inputs regarding their possible contributions to address these needs, to the Secretariat, no later than 31 December 2001. As of 26 February 2002, inputs were received from WWF International, the United Nations Development Programme (UNDP), the United Nations Conference on Trade and Development (UNCTAD), The World Bank and the Tebtebba Foundation, an indigenous organization based in the Philippines.

A. *Inputs from Parties*

10. Although no general conclusions can be drawn due to the limited number of submissions from Parties, the following provides an overview of the responses received.

1. *Priority areas*

11. The list of nine priority areas for capacity building relating to access and benefit-sharing were prioritized as follows:

(a) Among countries which do not have a national system for access and benefit-sharing in place, the development of a national access and benefit-sharing policy and administrative and legislative measures seems to be a top priority;

(b) Both the elaboration and implementation of contractual arrangements for access and benefit-sharing as well as the assessment, inventory and monitoring of biological resources and traditional knowledge, including taxonomic capacity were identified as the second priority;

(c) The third priority is the development of national research and development facilities in scientific and technical areas;

(d) The fourth is the development of information systems for information management and exchange.

However, it was generally recognized that capacity building was needed for all areas listed in the questionnaire.

2. *Existing expertise and experience to share with others to assist in the implementation of access and benefit-sharing arrangements*

12. Bolivia indicated that it had existing expertise and experience in the areas of:

(a) Development of national access and benefit-sharing policy, administrative and legislative measures; and

(b) Training and participatory planning and development of decision making mechanisms involving indigenous and local communities.

13. Argentina pointed to its experience in the elaboration and implementation of contractual arrangements on access and benefit-sharing between national research institutions and international academic institutions.

3. *Capacity-building needs for each of the areas listed in the questionnaire*

14. For each of the nine areas listed in the questionnaire, Spain suggested a number of specific capacity-building needs that should be taken into account in the elaboration of an action plan for capacity-building. Submissions provided by Parties and organizations are available on the Convention website.

4. *Capacity building initiatives under way*

15. Capacity-building initiatives are under way in Japan and the Bahamas. 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.

16. In the Bahamas, capacity-building initiatives are being carried out for the elaboration and implementation of contractual agreements related to access and benefit-sharing. They are also being considered for the assessment, inventory and monitoring of biological resources and traditional knowledge; the development of national research and development facilities in scientific and technical areas; and, the monitoring and assessment of capacity building initiatives.

5. *Role of various institutions in assisting with the elaboration and implementation of capacity-building for access to genetic resources and benefit-sharing*

(a) *Secretariat of the Convention on Biological Diversity*

17. It is generally considered that the Secretariat of the Convention on Biological Diversity should act as a coordinator among the various organizations involved in capacity building for access and benefit-sharing and should assist in providing access to and exchange of information on access and benefit-sharing through the clearing-house mechanism and the organization of workshops.

(b) *Global Environment Facility (GEF)*

18. The Global Environment Facility (GEF) is considered as the main funding mechanism for activities related to access and benefit-sharing in compliance with the objectives of the Convention.

(c) *Regional networks*

19. Regional networks for information exchanges and regional approaches to address access and benefit-sharing issues are encouraged.

(d) *Indigenous and local communities*

20. Indigenous and local community representatives were invited to provide information on their own organizational processes and modalities to be taken into account when regulating benefit-sharing arrangements.

(e) *Private sector/industry*

21. It was suggested that further initiatives should be undertaken by the Private Sector and Industry in order to develop mechanisms for benefit-sharing, such as joint ventures, and cooperative programmes with local institutions in provider countries for the development of human and institutional capacities.

(f) *Scientific/academic institutions*

22. Scientific and academic institutions were considered to play a central role in the prospecting, monitoring of biological resources and in the research and development of technologies based on biological resources and traditional knowledge, including taxonomic capacity.

6. *Additional suggestions*

23. It was suggested that capacity-building efforts should enhance the participation of relevant stakeholders in the discussions leading to the development of access and benefit-sharing arrangements and their implementation. These stakeholders may include various levels of Government, and indigenous and local communities.

B. *Ongoing work in relevant organizations*

1. *Preliminary considerations*

24. In the process of developing an action plan for capacity-building for access and benefit-sharing, it was suggested by WWF that, as a first step, it may be useful to provide an overview of ongoing capacity building initiatives and activities in order to identify the gaps and develop an action programme that may focus on addressing these gaps.

25. It was also suggested that current access and benefit-sharing arrangements could be reviewed to determine whether they are the optimal legal and administrative tools to protect genetic resources and traditional knowledge. Contractual agreements on access and benefit-sharing could also be assessed. In order to guide this process, it was suggested that case-studies could be carried out.

2. Capacity-building activities of various institutions

(a) WWF International

26. WWF has been working on access and benefit-sharing issues over the past four years, by providing technical support and policy guidance to a number of countries in the implementation of the Convention on biological diversity. These activities have included: analysis of existing national access and benefit-sharing measures in nine countries; national access and benefit-sharing workshops in nine countries; technical advice to governments; input into and comments on draft legislation or regulations in Fiji, India, Samoa, Uganda; and the development of guidelines for conducting research and accessing genetic resources in protected areas in Cameroon. Future efforts will be focused in the South Pacific, Cameroon and Colombia, to strengthen national capacities to develop and implement effective access and benefit-sharing measures, as well as strengthen social participation in access and benefit-sharing processes.

27. The objective is to enhance the commitment of resource managers/providers to the conservation and sustainable use of biodiversity through the promotion of appropriate access to, and fair and equitable sharing of benefits arising from the use of genetic resources.

(b) United Nations Conference on Trade and Development

28. The work carried out by UNCTAD has focused on the protection of traditional knowledge and began in February 2000. It has focused on the exchange of national experiences regarding policies and measures to protect traditional knowledge in a broad sense and on identifying policies to harness traditional knowledge for trade and development through various activities. These have included intergovernmental meetings, such as the expert meeting on systems and national experiences for the protection of traditional knowledge, innovations and practices, held in October 2000 and technical cooperation activities, such as those carried out under BIOTRADE and UNCTAD/UNDP country projects.

(c) United Nations Development Programme

29. As one of the Implementing Agencies of the GEF, UNDP has assisted 104 countries to access 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.

30. It was pointed out that 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.

31. 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.

(d) *The World Bank*

32. 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.

33. 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.

34. A number of activities relating to traditional knowledge are also carried out.

IV. RECOMMENDATIONS

35. In addition to the recommendations of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing and the elements for draft decisions included in section III of the progress report on the implementation of decisions V/26 A-C of the Conference of the Parties, the Conference of the Parties is invited to consider the following additional elements relating to capacity-building for access and benefit-sharing:

The Conference of the Parties

Recognizing the need to assess ongoing capacity-building activities for access and benefit-sharing, in view of elaborating an action plan for capacity-building for access and benefit-sharing,

1. *Invites* Parties and local and indigenous 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;

2. *Invites* relevant intergovernmental organizations, non-governmental organizations and the private sector to provide information regarding existing initiatives and activities for capacity-building for access to genetic resources and benefit-sharing;

3. *Requests* the Executive Secretary 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 underway in the area of access and benefit-sharing.

Annex

CAPACITY-BUILDING FOR ACCESS AND BENEFIT-SHARING: QUESTIONNAIRE TO ASSIST IN DETERMINING NEEDS AND PRIORITIES OF PARTIES

The purpose of this questionnaire is to identify the needs and priorities of Parties and stakeholders in the implementation of access and benefit-sharing arrangements.

I. On the basis of the following list of key areas for capacity-building in relation to access to genetic resources and benefit-sharing:

- Development of national access and benefit-sharing policy, administrative and legislative measures
 - Elaboration and implementation of contractual agreements on ABS
 - Development of information systems for information management and exchange
 - Assessment, inventory and monitoring of biological resources and traditional knowledge, including taxonomic capacity
 - Valuation of genetic resources and market information, including production and marketing strategies
 - Development of national research and development facilities in scientific and technical areas
 - Means for the protection of traditional knowledge associated with genetic resources
 - Funding and resource management
 - Monitoring and assessment of capacity building initiatives
- 1) Please indicate priority areas requiring capacity-building/strengthening in your country, to assist with the implementation of ABS arrangements, by numbering the elements of the above list by order of priority (from 1 to 9);
 - 2) Please indicate whether other areas related to access and benefit-sharing and requiring capacity-building should be included in this list.
 - 3) Please indicate in which of the following areas your country has expertise and experience to share with others to assist in the implementation of access and benefit-sharing arrangements.

II. According to the key areas for capacity-building listed above, please provide further information regarding your country's specific capacity building needs for each of these, more particularly with respect to: (a) public awareness and education; (b) human resource development; (c) institutional strengthening; (d) systemic capacity (i.e. national policy, legal and regulatory framework, processes and interactions among national institutions)

III. For each of the key areas listed above, please indicate whether capacity-building initiatives have already been carried out or are being considered.

IV. On the basis of needs and priorities established by Parties, the Workshop will assist in identifying the appropriate means of implementation and promote coordination among the various actors involved in capacity-building initiatives. In your view, how could the following entities best facilitate capacity-building to assist Parties with the implementation of ABS arrangements:

- a. The CBD Secretariat
- b. The GEF

- c. Other bilateral and multilateral donors
- d. Intergovernmental organizations
- e. Regional networks
- f. Non-governmental organizations
- g. Private Sector/Industry
- h. Scientific/Academic Institutions

V. What other suggestions do you wish to make on capacity-building as it relates to access and benefit-sharing

Please submit to the Secretariat any other information available in your country relevant to capacity-building for ABS, e.g.: existing programmes and initiatives; provision of technical and financial assistance to interested Parties.
