ROYAL NORWEGIAN MINISTRY OF
CLIMATE AND ENVIRONMENT

Convention on Biological Diversity
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Att: Regina Kipper

Your ref	Our ref	Date
	19/425-17	30 September 2019

CBD notification 2019-025 - Submission of views and information further to decision NP-3/14 - Submission from Norway

1. Information on how specialized international access and benefit-sharing instruments are addressed in their domestic measures.

The Nature Diversity Act, section 58 gives the King the authority to determine that the collection of og biological material from the natural environment for the purpose of futilising the genetic material, or the utilisation of such material, requires a permit from the Ministry.

However, there is an exemption for the requirement to apply for permit if you collect genetic resources from the natural environment where the purpose is for use and further breeding or cultivation in agriculture or forestry.

The implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) is supported by administrative, financial and technical domestic measures.

In addition, there are several specific regulations and policies related to the implementation of the ITPGRFA.[1] Some examples are:

- Regulation on propagating material:

https://lovdata.no/dokument/SF/forskrift/1999-09-13-1052?q=såvare%20forskrift
The purpose of the regulation is to ensure the production and trading of propagating material of good quality and plant health, as well as to contribute to in situ conservation and sustainable use of plant genetic resources.

[1] See also Norway's compliance report to the ITPGRFA: http://www.fao.org/3/a-br424e.pdf

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- Guidelines for support to plant breeding and multiplication in order to ensure that Norwegian agriculture has access to climate adapted and diverse varieties free of diseases.
- Guidelines for support to activities related to the management of genetic resources for food and agriculture.[2]
- Both the patent act and the plant breeders' rights act have requirements for disclosure of origin. Regarding the latter, Norway deliberately adheres to the 1978 Act of the UPOV Convention, because of the better balance between Plant Breeders' Rights and Farmers' Rights.[3]
- Establishment of Norwegian Genetic Resources Centre to coordinate national and international activities for the implementation of GRFA policies.

The Ministry of Agriculture and Food is in the final stage of making a national strategy for genetic resources for food and agriculture.

There is a close collaboration among the Nordic countries regarding the management of genetic resources including a joint Nordic genebank. The basic principles for the Nordic approach to access and benefit sharing are reflected in the Kalmar Declaration from 2003.[4] NordGen uses the SMTA for all material under the ITPGRFA and facilitate access to other material and for other purposes applying similar conditions.[5]

The 2009 Nature Diversity Act has special provisions for genetic material covered by the International Treaty on Plant Genetic Resources for Food and Agriculture and its implementation:

Section 60, fifth paragraph *(genetic material from other countries)*

When genetic material covered by the International Treaty *on Plant Genetic Resources for Food and Agriculture of 3 November 2001 is utilised in Norway for research or commercial purposes, it shall be accompanied by information to the effect that the material has been acquired in accordance with the Standard Material Transfer Agreement established under the treaty.*

Section 61 (implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture)
The King may make regulations regarding the implementation of the International Treaty *on Plant Genetic Resources for Food and Agriculture of 3 November 2001 in Norwegian law. The regulations may make further clarifications and exemptions from the provisions of this chapter.*

[2] More information (in Norwegian): https://www.landbruksdirektoratet.no/no/miljo-og-okologisk/genressurstiltak/tilskudd-til-genressurstiltak/tilskudd-til-genressurstiltak
[3] For further information, see example 10 in Norway's submission on the realisation on Farmers' Rights to the ITPGRFA: http://www.fao.org/3/ca4162en/ca4162en.pdf (also the other examples provide information on Norway's implementation of the ITPGRFA).
[4] https://www.nordgen.org/en/about-us/the-kalmar-declaration/
[5] https://www.nordgen.org/en/plants/seed-potato-request/material-transfer-agreements/

2. Views on the potential criteria contained in the study, taking into account Article 4, paragraphs 1 to 3, of the Protocol

The characteristics of a specialised instrument will depend on the genetic resource in question and the purpose of the instrument. Therefore, we are not convinced that there is a need to develop criteria under Article 4, no. 4. In any case the criteria should not narrow the scope of the Article. Furthermore it is clear that the International Treaty on Plant Genetic Resources for Food and Agriculture is a specialised international access and benefit-sharing instrument according to Article 4 no. 4.

However if such criteria is to be developed we support that an instrument can be binding and non-binding. We would also stress that an instrument can be both intergovernmentally as well as internationally agreed.

Public health is of major concern to the Norwegian Government. In our view The criteria should be phrased in a way that makes it clear that the PIP-framework adopted by the World Health Assembly in 2011 falls within the criteria. However, in para 3 it states that the instrument "*would be"* consistent with and not run counter to. We suggest to change the wording to "*is"* consistent with and not run counter to" so that it is clear that all instruments are covered regardless of already being in existence such as is the case for the International Treaty on Plant Genetic Resources for Food and Agriculture and the PIP Framework, or instruments being negotiated and adopted in the future……".

We note that the wording "*Consistency with biodiversity conservation and sustainable use objectives"* is in line with the Nagoya Protocol article 4 para 4. However, from a public health point of view this general formulation is not suited to pathogens. Pathogens should not be conserved or sustainably used. Take the example of the smallpox virus which is eradicated and the polio-virus which members of the WHO use large resources to eradicate. Thus, in principle, the eradication of the pathogens is warranted.

Yours sincerely

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