List of Questions Emerging from the
Canadian National Meeting on ABS and the Issue of Certificates of
Origin/Source/Legal provenance[1]

A national domestic meeting on the issue of certificates of origin/source/legal provenance was held in Gatineau (Canada) on November 16, 2006. The first objective of the meeting was to create awareness and inform a range of Canadian stakeholders, either users or providers of genetic resources and associated traditional knowledge, regarding the ongoing discussion on the issue of certificates under the Convention on Biological Diversity, particularly in the context of the international ABS regime negotiations, and the related policy discussions within the domestic ABS policy process in Canada.

The second objective of the meeting was to inform Canadian contributions to the Meeting of the Group of Technical Experts on an Internationally Recognized Certificate of Origin/Source/Legal Provenance (Peru, Jan. 2007) and the CBD Working Group on ABS by identifying important flows of biological resources, the practices and regulations that govern them, any forms of certification that takes place and questions arising from the broad debate over various certificate and certification proposals.

The following questions were generated throughout the discussions that took place during the meeting.

• What is the rationale for the certificate system? How will a certificate system help achieve the access and benefit-sharing objectives of the Convention on Biological Diversity?

• Would a certificate system be retroactive and apply to those genetic resources acquired prior to its entry into force or entry into force of the international regime? If so, how far back would it go?

• Would a certificate be a legally-binding requirement for users of genetic resources and associated traditional knowledge?

• Would a certificate cease to be valid at some point?

• What type of information would appear on a certificate?

• How would the validity of a certificate be ensured and issuance of false certificates be avoided?

• What would happen if, for some reason, a provider country was not in a position to issue a certificate?

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[1] These questions reflect the discussions that took place in Canada on November 16, 2006, among a group of Canadian stakeholders. These questions do not represent the view of the Government of Canada and are intended to stimulate domestic and international discussions on the issue of certificates of origin/source/legal provenance.

- Who would be responsible for administering costs associated with a certificate system?

- Would a certificate be valid to access the same resource repeatedly or would a new one be required every time?

- What relationship would the certificate system have with the international regime?

- What relationship would the certificate system have with the patent system?

- What relationship would the certificate have with the WTO agreements? Could a certificate constitute a barrier to trade?

- What form would a certificate take? Would it be a paper document, or an electronic record?

- Would an entity be responsible for compiling certificate-related information (e.g. number of certificates issued by countries, Parties and genetic resources involved)

- What kind of resources would require a certificate? How would a user know that a given resource is considered a genetic resource that requires a certificate?

- Would the certificate need to accompany the exchange of materials between third parties?

- Would a certificate be proof of compliance with PIC?

- What would happen if provider countries do not have PIC systems in place?

- Could voluntary interim measures aimed at facilitating the exchange of information on the origin of genetic resources be considered to ensure continued flow of genetic resources while provider countries develop and implement a certificate system?

- What would be the legal status of a certificate, is it a public document or subject to confidentiality clauses?

- Who would have access to the information contained on the certificate? How can it be used and by whom?

- What are the most appropriate and efficient checkpoints for a certificate? How feasible and burdensome would it to have the borders as checkpoints?

- What is the relationship between a certificate and traditional knowledge? How and should TK be reflected on a certificate?