



Convention on Biological Diversity

Secretariat

Ref: EDM/HZ/OJ

2 April 2001

Dear Madam/Sir,

NOTIFICATION

Ad Hoc Open-ended Working Group on Access and Benefit-sharing

I wish to remind you of the Secretariat's two distinct notifications of 19 January 2001 concerning the Ad Hoc Open-ended Working Group on Access and Benefit-sharing and the role of intellectual property rights in the implementation of access and benefit-sharing arrangements.

Ad Hoc Open-ended Working Group on Access and Benefit-sharing (Bonn, Germany, 22-26 October 2001)

The notification of 19 January 2001 on this matter invited Parties to submit written contributions to the Secretariat no later than 31 March 2001 to allow for the timely preparation of the documentation by the Secretariat and its circulation prior to the meeting.

It is recalled that, by decision V/26, the Conference of the Parties to the Convention on Biological Diversity decided to establish an Ad Hoc Open-ended Working Group on access to genetic resources and benefit-sharing composed of representatives, including experts, nominated by Governments and regional economic integration organizations.

In accordance with paragraph 11 of decision V/26, the Ad Hoc Open-ended Working Group is mandated: "*to develop guidelines and other approaches for submission to the Conference of the Parties and to assist Parties and stakeholders in addressing the following elements as relevant to access to genetic resources and benefit-sharing, inter alia:*

- *Terms for prior informed consent and mutually agreed terms;*
- *Roles, responsibilities and participation of stakeholders;*
- *Relevant aspects relating to in situ and ex situ conservation and sustainable use;*
- *Mechanisms for benefit-sharing, for example through technology transfer and joint research and development;*
- *and means to ensure the respect, preservation and maintenance of knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, taking into account, inter alia, work by the World Intellectual Property Organization on intellectual property rights issues".*

Decision V/26 also notes, in paragraph 14, that further development of capacities regarding all aspects of access and benefit-sharing arrangements is required for all stakeholders, including local governments, academic institutions, and indigenous and local communities, and that key capacity-building needs include:

To: National Focal Points



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- (a) assessment and inventory of biological resources as well as information management;
- (b) contract negotiation skills;
- (c) legal drafting skills for development of access and benefit-sharing measures;
- (d) means for the protection of traditional knowledge associated with genetic resources.

In this connection, decision V/26 further provides that in order to build capacity for access and benefit-sharing, the Open-ended Working Group shall consider issues of capacity-building, including the above-mentioned needs.

The results of the deliberations of the Working Group, including draft guidelines and other approaches, shall be submitted for consideration by the Conference of the Parties at its sixth meeting.

The role of intellectual property rights in access and benefit-sharing

The notification of 19 January 2001 noted that the Secretariat had received no contributions on this issue by the deadline 31 December 2000 established by the Conference of the Parties and reiterated the invitation to submit contributions as soon as practicable.

It is recalled that, in section A, paragraph 15, of Decision V/26, the Conference of the Parties noted that the Panel of Experts on Access and Benefit-Sharing was not able to come to any conclusions about the role of intellectual property rights in the implementation of access and benefit-sharing arrangements. The Panel developed a list of specific issues that require further study. These issues, which are set out in detail in paragraphs 127 to 138 of the report of the first meeting of the Panel (UNEP/CBD/5/8, pages 23-25), relate to:

- The role of intellectual property rights in prior informed consent;
- Intellectual property and traditional knowledge related to genetic resources;
- Intellectual property rights and access and benefit-sharing agreements;
- Scope, prior art and monitoring.

In paragraph 15 of decision V/26, the Conference of the Parties invited Parties and relevant organizations to submit to the Executive Secretary information on these issues by 31 December 2000. On the basis of these submissions and other relevant material, the Executive Secretary is required to prepare a report for the first meeting of the Ad-Hoc Open-ended Working Group.

As the Secretariat has initiated the preparation of the pre-session documentation for the meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing to be held in Bonn, Germany, from 22 to 26 October 2001, the Executive Secretary wishes to reiterate the invitation to submit detailed views on the above-mentioned issues, as soon as practicable. The Secretariat will compile and synthesize the information received and disseminate it in advance of the meeting.

I thank you for your cooperation and continued support to the work of the Convention.

Accept Madam/Sir the assurances of the highest consideration.

Yours sincerely,

Hamdallah Zedan
Executive Secretary