

Ref: SCBD/SEL/VN/GD

3 July 2002

Dear Madam/Sir,

NOTIFICATION**Decision VI/24 on Access and Benefit-sharing as related to genetic resources**

The purpose of this notification is to invite relevant intergovernmental organisations, non-governmental organisations, indigenous and local communities and the private sector, to take specific actions, as appropriate, to assist the Secretariat in the preparation of relevant background documentation for meetings and the dissemination of information with regard to the implementation of decision VI/24 adopted by the Conference of the Parties (COP) at its sixth meeting.

A copy of decision VI/24 is attached hereto. The issues requiring action are addressed in the following sections.

Capacity-building

In decision VI/24B, the COP recognised the need to assess ongoing capacity-building activities for access and benefit-sharing, and decided to convene an Open-ended Workshop on Capacity-building for Access to Genetic Resources and Benefit-sharing. The workshop should further develop the draft elements for an Action Plan on Capacity-building for Access and Benefit-sharing. The workshop is tentatively planned for 26-28 November 2002.

In paragraph 4 of the same decision, the COP invited relevant intergovernmental organisations, non-governmental organisations and the private sector to provide information regarding initiatives and activities for capacity-building for access to genetic resources and benefit-sharing.

On the basis of these submissions and those provided by Parties, the Executive Secretary is required 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.

To: All relevant intergovernmental organisations, regional organisations, non-governmental organisations, indigenous and local communities and the private sector. /...



Requested action

Relevant intergovernmental organisations, non-governmental organisations and the private sector are invited to submit **information on initiatives and activities for capacity-building** for access to genetic resources and benefit-sharing to the Secretariat by **1st September 2002**, on the basis of the attached questionnaire.

Second meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing

In decision VI/24A, paragraph 8, the COP decided to reconvene the *Ad Hoc* Open-ended Working Group on Access and Benefit-sharing to advise the Conference of the Parties on:

- (a) Use of terms, definitions and/or glossary, as appropriate;
- (b) Other approaches as set out in decision VI/24 B;
- (c) Measures, including consideration of their feasibility, practicality and costs, to support compliance with prior informed consent of the Contracting Party providing such resources and mutually agreed terms on which access was granted in Contracting Parties with users of genetic resources under their jurisdiction;
- (d) Its consideration of any available reports or progress reports arising from the present decision;
- (e) Needs for capacity-building identified by countries to implement the Guidelines.

In paragraph 9, the COP also requested the Executive Secretary to invite Parties, Governments and relevant international organisations to submit information on the issues referred to in paragraphs 8(a), (b), (c) and (e) above and to make this information available to the Working Group and through the clearing-house mechanism.

The second meeting of the Working Group is tentatively planned from 1-5 December 2003.

Requested action

Relevant organisations are invited to provide information related to the issues to be examined by the Working Group, to assist in preparing relevant documentation for the meeting, **by 15 January 2003**.

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

The Executive Secretary was requested, in decision VI/24C, paragraph 3, to undertake further information gathering and analysis with the help of other international and intergovernmental organisations such as the World Intellectual Property Organisation (WIPO) and through the *Ad Hoc* Open-ended Intersessional Working Group on Article 8(j) and related provisions, where appropriate, with regard to:

- (a) Impact of intellectual property regimes on access to and use of genetic resources and scientific research;

- (b) Role of customary laws and practices in relation to the protection of genetic resources and traditional knowledge, innovations and practices, and their relationship with intellectual property rights;
- (c) Consistency and applicability of requirements for disclosure of country of origin and prior informed consent in the context of international legal obligations;
- (d) Efficacy of country of origin and prior informed consent disclosures in assisting the examination of intellectual property rights applications and the re-examination of intellectual property rights granted;
- (e) Efficacy of country of origin and prior informed consent disclosures in monitoring compliance with access provisions;
- (f) Feasibility of an internationally recognised certificate of origin system as evidence of prior informed consent and mutually agreed terms; and
- (g) Role of oral evidence of prior art in the examination, granting and maintenance of intellectual property rights.

In paragraph 4 of the same decision, the WIPO was invited to prepare a technical study, and to report its findings to the COP at its seventh meeting, on methods consistent with obligations in treaties administered by WIPO for requiring the disclosure within patent applications of, inter alia:

- (a) Genetic resources utilized in the development of the claimed inventions;
- (b) The country of origin of genetic resources utilized in the claimed inventions;
- (c) Associated traditional knowledge, innovations and practices utilized in the development of the claimed inventions;
- (d) The source of associated traditional knowledge, innovations and practices; and
- (e) Evidence of prior informed consent.

Requested action

In accordance with paragraphs 3 and 8 of decision VI/24C, relevant international organisations as well as regional organisations, are invited to contribute to the **further study and analysis** of the issues specified in paragraphs 3 and 4. Relevant information should be provided to the Secretariat **by 1 March 2003**.

Prior informed consent of indigenous and local communities

In decision VI/24C, paragraph 13, the Executive Secretary is requested to compile information, and to make it available through the clearing house mechanism of the Convention and other means, on the principles, legal mechanisms and procedures for obtaining prior informed consent of indigenous and local communities under national access regimes for genetic resources, and also on assessments of the effectiveness of such mechanisms and procedures, and requested Parties to provide such information to assist the Executive Secretary.

Requested action

Representatives of indigenous and local communities and relevant organisations are invited to provide information to the Secretariat by **1 March 2003**.

Information related to access and benefit-sharing arrangements

In decision VI/24D, the COP recognised that access to information is an essential instrument in the development of national capacity for dealing with access and benefit-sharing arrangements and in enhancing the necessary bargaining power of stakeholders in access and benefit-sharing arrangements.

The COP also noted that, since the adoption of the Convention, an increasing number of Parties have developed national/regional regimes on access and benefit-sharing and that Parties and stakeholders could learn from sharing their respective experiences relating to the development and implementation of access and benefit-sharing regimes and that the Secretariat of the Convention could assist in disseminating this information among Parties and stakeholders.

In paragraph 6 of the same decision, the COP requested Parties and relevant organisations, as appropriate, to make available to the Executive Secretary:

- (a) Detailed information on the measures adopted to implement access and benefit-sharing, including the text of any legislation or other measures developed to regulate access and benefit-sharing;
- (b) Case studies on the implementation of access and benefit-sharing arrangements;
- (c) Other information, such as that listed in decision V/26, paragraph 12.

In paragraph 7, the Executive Secretary is requested to compile the information received and to make it available in order to facilitate access to this information by Parties and relevant stakeholders.

Requested action

Relevant organisations are invited to submit information requested in paragraph 6 to the Secretariat as soon as it becomes available.

Accept, Madam/Sir, the assurance of my highest consideration.

Yours sincerely,

Hamdallah Zedan
Executive Secretary

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, please indicate:

A. The three top priority areas requiring capacity-building/strengthening in your country to assist with the implementation of ABS arrangements

B. The three areas in which your country has the most expertise and experience to share with others to assist in the implementation of access and benefit-sharing arrangements

- 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
- Funding and resource management
- Monitoring and assessment of capacity building initiatives

II. For each of the following areas, please number (as appropriate) the suggested capacity building activities, by order of priority:

A. Development of national ABS policy, administrative and legislative measures

- Public education and awareness
- Institutional strengthening:
 - Establishment of Competent National Authorities and National Focal Points
 - Establishment of necessary information facilitation mechanisms
- Human resource development of Governments and stakeholders for participation in decision making and implementation:
 - Education and training

- B. Elaboration and implementation of contractual agreements on ABS
- Public education and awareness of relevant stakeholders
 - Human resource development of Government and stakeholders, through education and training:
 - e.g.: contract negotiation skills
 - Information exchange mechanisms to learn from others experiences
 - Establishment of necessary scientific and information management facilities
- C. Development of information systems for information management and exchange
- Development of human resources
 - Establishment of information systems and management facilities
- D. Assessment, inventory and monitoring of biological resources and traditional knowledge, including taxonomic capacity
- Development of human resources through education and training
 - Institutional strengthening
- E. Valuation of genetic resources and market information, including production and marketing strategies
- Carrying out of research, inventories and national case studies on endemic genetic resources
 - Human resource development with respect to production and marketing strategies
 - Establishment of relevant national institutions
- F. Development of national research and development facilities in scientific and technical areas
- Human resource development
 - Technology transfer
 - Institutional strengthening
- G. Funding and resource management
- Human resource development
 - Institutional strengthening
- H. Monitoring and assessment of capacity building initiatives
- Development of instruments, tools and indicators
 - Human resource development
 - Institutional strengthening

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. What are your views on how best the following entities could facilitate capacity-building to assist Parties with the implementation of ABS arrangements:

- The Secretariat
- The GEF
- Other bilateral and multilateral donors
- Intergovernmental organizations
- Regional networks
- Non-governmental organizations
- Private Sector/Industry
- Scientific/Academic Institutions

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

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