



Secretariat of the Convention on Biological Diversity



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12 September 2008

NOTIFICATION

Access and Benefit-sharing: Group of Technical and Legal Experts on Compliance – nomination of experts and submission of views

Dear Madam/Sir,

In its decision IX/12, paragraph 11, the Conference of the Parties decided, *inter alia*, to establish a group of technical and legal experts to further examine the issue of compliance in order to assist the Ad Hoc Open-ended Working Group on Access and Benefit-sharing in the elaboration and negotiation of the international regime on access and benefit-sharing. Following the kind invitation of the Government of Japan, the group of legal and technical experts will meet in Tokyo, Japan, on 27-30 January 2009.

The terms of reference for the expert group, set out in Annex II A to the decision, are as follows:

- a) What kind of measures are available, or could be developed, in public and private international law to (i) facilitate, with particular consideration to fairness and equity and taking into account cost and effectiveness, access to justice, including alternative dispute resolution, and access to courts by foreign plaintiffs; (ii) Support mutual recognition and enforcement of judgments across jurisdictions; and (iii) Provide remedies and sanctions in civil, commercial and criminal matters, in order to ensure compliance with national access and benefit-sharing legislation and requirements, including prior informed consent, and mutually agreed terms.
- b) What kind of voluntary measures are available to enhance compliance of users of foreign genetic resources.
- c) Consider how internationally agreed definitions of misappropriation and misuse of genetic resources and associated traditional knowledge could support compliance where genetic resources have been accessed or used in circumvention of national legislation or without setting up of mutually agreed terms.
- d) How could compliance measures take account of the customary law of indigenous and local communities?
- e) Analyse whether particular compliance measures are needed for research with non-commercial intent, and if so, how these measures could address challenges arising from changes in intent and/or users, particularly considering the challenge arising from a lack of compliance with relevant access and benefit-sharing legislation and/or mutually agreed terms.

Nomination of experts

The Conference of the Parties further decided that the group of experts shall be regionally balanced and composed of thirty experts nominated by Parties and ten observers, including three observers

To: CBD National Focal Points and ABS National Focal Points, international organizations, indigenous and local communities and stakeholders



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from indigenous and local communities nominated by them, and remaining observers from, *inter alia*, international organizations and agreements, industry, research institutions/academia and non-governmental organizations.

In light of the above, Parties are hereby invited to submit the nomination of experts to the Secretariat at their earliest convenience, but **no later than 1 November 2008**. The nominees should have relevant and recognized expertise with regard to the issues to be discussed by the meeting to ensure its successful outcome.

Indigenous and local communities, international organizations and agreements, industry, research institutions/academia and non-governmental organizations are also invited to submit the nomination of observers for participation in the expert group at their earliest convenience, and **no later than 1 November 2008**.

In order to facilitate the selection process, it is requested that the curriculum vitae of the nominated experts/observers be forwarded to the Secretariat along with the nominations.

Based on the nominations received, the Executive Secretary will recommend a list of experts and observers for the approval of the Bureau, in accordance with paragraph 12 of decision IX/12. Experts and observers will be selected on the basis of expertise, the need to ensure a fair and equitable geographical distribution, as well as gender balance.

Submission of views

In paragraph 15 of decision IX/12, the Conference of the Parties also invited Parties, Governments, international organizations, indigenous and local communities and relevant stakeholders to provide information and views related to the issues to be addressed by each expert group six weeks prior to the convening of each group. Therefore, Parties, organizations, indigenous and local communities and relevant stakeholders are hereby invited to submit views and other information to the Secretariat **as soon as possible, but no later than 28 November 2008**.

Please note that submissions may be provided in any word processing format. Views and other information provided will be compiled by the Secretariat and made available to the expert group.

Please accept, Madam/Sir, the assurances of my highest consideration.

Ahmed Djoghlaif
Executive Secretary