



Access to genetic resources and the fair and equitable sharing of benefits arising out of their utilization

The third objective of the Convention provides for “the fair and equitable sharing of the benefits arising out of the utilization of genetic resources...” The Convention, in its article 15, sets out principles and obligations of Parties related to access to genetic resources and the fair and equitable sharing of benefits arising out of the utilization of genetic resources, on the basis of prior informed consent and mutually agreed terms.

The Convention establishes that a person or institution seeking access to the genetic material of a biological resource in a foreign country should seek the prior informed consent of the country in which the resource is located. Moreover, the person or institution must also negotiate and agree on the terms and conditions of access and use of this resource. This includes the sharing of benefits arising from the use of this resource, with relevant authorities in the provider country, in order to obtain permission to access the genetic resource and to use it.

Conversely, countries, when acting as providers of genetic resources, should try to create conditions to facilitate access to their genetic resources for environmentally sound uses and not to impose restrictions that run counter to the objectives of the Convention.

Genetic resources, whether from plant, animal or micro-organisms, are used for a variety of purposes ranging from basic research to the development of products. Users of genetic resources may include research institutes, universities and private companies operating in various sectors such as pharmaceuticals, agriculture, horticulture, cosmetics and biotechnology.

Examples of uses:

- The use of Calanolide A, a compound isolated from the latex of the tree, *Calophyllum lanigerum* var. *auslrocoriaceum* found in the Malaysian rain forest, as a treatment for the human immunodeficiency virus type 1 (HIV-1)
- The commercialization of a gene sequence of *Oryza longistaminata* (wild rice species) that is responsible for its resistance to bacterial rice blight
- The use of indigenous plant resources for breeding programmes and cultivation, e.g. the so called “Mono Lavender”, a hybrid of two *Plectanthus* species indigenous to South Africa, is now commercially available throughout Europe, the US and Japan
- The development of an appetite suppressant derived from species of *Hoodia*, succulent plants indigenous to Southern Africa and long used by the San people to stave off hunger and thirst

Benefits derived from genetic resources may include the results of research and development carried out on genetic resources, the transfer of technologies which makes use of those resources, participation in biotechnological research activities, or monetary benefits arising from the commercialisation of products based on genetic resources.

Examples of benefit-sharing:

- Research exchanges: A researcher from a provider country collaborates with research staff from the user country
- Provision of equipment, infrastructure support and technologies: e.g. the user of genetic resources sets up laboratories or a drug manufacturing facility in the provider country
- Payment of royalties: royalties generated are shared between the provider and the user of genetic resources and associated traditional knowledge
- Preferential access for the provider country to any medicine derived from the genetic resources and associated traditional knowledge it provided: e.g. preferential rates to purchase medicine
- Joint ownership of intellectual property rights: e.g. joint ownership of IPRs between the user and the provider of genetic resources is sought for patented products based on the genetic resource accessed
- Training of the provider country's scientists/ researchers with respect to the use and handling of genetic resources

The International Regime on Access and Benefit-sharing

In order to further implement the third objective of the Convention and its ABS related provisions, the World Summit on Sustainable Development, held in Johannesburg in September 2002, called for action to negotiate within the framework of the Convention on Biological Diversity an international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources. In 2004, in response to this call for action, the Conference of the Parties (COP) mandated the Working Group on Access and Benefit-sharing to elaborate and negotiate the "international regime on access to genetic resources and benefit-sharing" and, at its ninth meeting, in May 2008, in Bonn, Germany, the COP agreed on a schedule of meetings to complete negotiations before its tenth meeting, to be held in 2010, in Nagoya, Japan

Why is it important:

- An international regime can ensure that biodiversity-rich developing countries obtain a fair and equitable share of benefits arising out of the use of genetic resources originating from its territory by setting out a clear and transparent framework for access and benefit-sharing.
- The sharing of benefits, through technology transfer, research results, training and profits can contribute to poverty reduction and sustainable development in biodiversity rich developing countries.
- Access to genetic resources in exchange for fair and equitable sharing of benefits can contribute to further research and development contributing to human well-being through its use in pharmaceuticals, cosmetics, agriculture and many other sectors.
- Access to genetic resources is also essential to ensure a better understanding of the world wide web of life through taxonomic research.



Photo by Elpido P. Peria, Philippines

Technology Transfer and Capacity-Building – a major benefit

The National Biodiversity Institute (INBio) in Costa Rica was created in 1989 as a private, non-profit association with the aim of strengthening and reviving the value of biological diversity in Costa Rica and thereby promoting its conservation and sustainable use. INBio engaged successfully in research and bioprospecting activities and collaborated with various partners, such as investigation centers, universities, national and international private companies. Over the years, INBio, as a result of its partnerships, was able to develop an infrastructure that allows in house research and development of products. Transfer of essential technology (e.g. molecular biology laboratory), as well as training of the Institute's scientists in state-of-the-art-technology enabled INBio, amongst other things, to enhance its capacity in molecular taxonomy which is key in fulfilling its mandate regarding the maintenance of Costa Rica's National Biodiversity Inventory.

Kerry Ten Kate and Sarah A. Laird, The Commercial Use of Biodiversity: Access to genetic resources and benefit-sharing (1999), p. 253

www.cbd.int/abs



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