

ACCESS AND BENEFITS SHARING In the view of the National Confederation of Industry – Brazil (CNI)

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3rd. Meeting of the Global Partnership
for Business and Biodiversity

Montreal, October 2nd, 2013



CNI – Industry in Brazil

- Established in 1938
- 27 Federation of Industry in the states and the Federal District, and approximately 1,300 unions all over Brazil
- Industrial Sector - $\frac{1}{4}$ of the national economy



(Foto: Diego Queiroz/CGCOM)



CNI and Biodiversity

- Industry Network on Biodiversity and Forests
 - Institutional representation
 - Meetings
 - Capacity building
 - Publications
 - Projects in partnership with Brazilian government (MMA), GIZ, Conservation International (TEEB Brazil) and othersEngage in the public politics debate
- Brazilian Initiative on Business and Biodiversity (launched during Rio+20)

Brazil – a sociobiodiverse country

- **Brazil is the most biologically diverse nation in the world:** 15-20% of all the world's biological diversity, and the greatest number of endemic species on a global scale
- **Huge cultural diversity:** 231 indigenous peoples and others traditional communities, such as *quilombolas*, rubber tappers, *fundo de pasto*, *faxinais*, *ribeirinhos*, *geraizeiros*, *romani*, *pomeranos*, *quebradeiras de coco babaçu*, and *caiçaras*, among others
- **Six terrestrial biomes and three large marine ecosystems:** Amazon, Atlantic Forest, Caatinga, Cerrado, Pampas, and Pantanal

Brazilian biodiversity

- Competitive advantage, source of innovation
- Potential use by industry: food production, renewable energy, medicine, cosmetics, fine chemicals, forest products, textile and others
- However, uncertainty and delay in regulating access to Brazilian biodiversity impact the ability to innovate and develop new businesses based on biodiversity

Brazilian Legislation on ABS

- Provisional Measure (MP) 2186-16/2001 regulates CBD provisions
- CGEN - Council for Genetic Heritage Management
- Composed by 19 representatives of governmental sectors
 - ✓ Authorizes the access to GR and TK for the purpose of research, bioprospecting and technology development
 - ✓ Requires PIC to access GR and TK associated to genetic resources (authorization before access)
 - ✓ Requires the signing of benefit sharing contracts and their submission to CGEN (mutually agreed terms - MAT)
 - ✓ non-compliance measures
- Accredited institutions by the Management Council (access by Brazilian institutions)
 - Ibama (access to GR for scientific research), CNPq (access to GR for scientific research, bioprospecting, or technological development), Iphan (access to TK for scientific research)

Brazilian Legislation on ABS

Challenges

- Difficult to implement - lack of clarity on the requirements, terms and scope, overly bureaucratic and time-consuming procedures in place

Implications: few permits

- CGEN (2003 – 23/04/2013)
 - Total: 170 (65 companies)
- CNPQ (2010 – 12/05/2013)
 - Total: 105 (4 companies)

CGEN and CNPQ Authorizations to Companies for Bioprospecting and Technological Development

Year	Companies authorizations	Empresas autorizadas
2003	0	
2004	1	Quest International do Brasil Indústria e Comércio Ltda
2005	2	Natura Inovação e Tecnologia de Produtos Ltda Extracta Moléculas Naturais S/A
2006	0	
2007	7	Natura Inovação e Tecnologia de Produtos Ltda (7)
2008	0	
2009	1	Natura Inovação e Tecnologia de Produtos Ltda
2010	1	Solabia Biotecnológica Ltda
2011	4	Natura Inovação e Tecnologia de Produtos LTDA (3) Solabia Biotecnológica Ltda
2012	50	Natura Inovação e Tecnologia de Produtos Ltda (28) Apis Flora Industrial e Comercial Ltda (1) Croda do Brasil Ltda (3) Cicofarma Indústria Química Ltda (1) Solabia Biotecnológica Ltda (9) IFF Essências e Fragrâncias Ltda (1) BASF S.A (1) Lychnoflora Pesquisa e Desenvolvimento de Produtos Ltda (1) Plantus Indústria e Comércio de Óleos, Extratos e Sementes Ltda (1) Cristália Produtos Químicos Farmacêuticos Ltda (CGEN:1 CNPQ:2) Al Sukkar Biotecnologia Industrial Ltda. ME (CNPQ:1)
2013	3	Solabia Biotecnológica Ltda Natura Inovação e Tecnologia de Produtos LTDA Bio Controle Métodos de Controle de Pragas Ltda (CNPQ:1)
	69	14

National Legislation: Industry view

- Modern legislation that stimulates innovation and competitiveness of the productive sector
- Clear and stable rules of procedure, that protects the integrity of the heritage of national biodiversity, consumer safety and interests of communities holding traditional knowledge
- Opportunities for the Brazilian industry and great competitive advantage in the world
- Less bureaucracy
- Legal certainty

Access to Genetic Resources and Benefit Sharing - Assumptions

- Increase in incentive policies for R&D&I for the sectors that use biodiversity
- Sustainable use of biodiversity to ensure the conservation of biological diversity and ecosystem balance where access was made
- Access by GR registration (no need for authorization)
- Benefit sharing - when there is economic exploitation of the product directly derived from access to genetic resources and associated traditional knowledge
- Free negotiation between user and provider of the amount due through mutually agreed terms (MAT) or 0.2% of the annual net revenue obtained with the economic exploitation of the product resulting from access to genetic resources to a National Benefit-Sharing Fund - NBSF

Brazil and Nagoya Protocol

- Brazil was one of the first countries to sign the Protocol in 2011 (02/02/2011)
- June 5, 2012 – Message 245 of 2012 to National Congress – must approve the Nagoya Protocol before ratification
- Protocol currently under discussion in the Congress
- Brazil is a provider country and user country, especially in terms of the provider of agricultural commodities

Nagoya Protocol: Some Uncertainties and e Ambiguities

- Ambiguity over the inclusion of "derivatives"
- No clear answer on the status of *ex situ* genetic resources prior to entry into force of the Protocol
- Verification and monitoring of compliance
- Uncertainty about who is the provider
- Transboundary situations or situations when it is not possible to grant or obtain prior informed consent

Obligations

- Brazil as provider (genetic resources from Brazil)
 - Brazilian national legislation
- Brazil as user (genetic resources from others Parties)
 - National legislations from others Parties
 - Nagoya Protocol's rules (transboundary situations or when it is not possible to grant or obtain prior informed consent)

Brazil and Nagoya Protocol

Study on the Impacts of the Adoption and Implementation of the Nagoya Protocol to Brazilian Industry

- Main Objective: evaluate positive and negative impacts arising from the implementation of the Nagoya Protocol to the activities of Brazilian industries that utilize genetic heritage of Brazilian biodiversity and genetic resources originating in other countries.

Brazil and Nagoya Protocol

- Main concerns:
 - economic impact
 - legal certainty and bureaucracy
 - guarantee of sovereign rights of States over their natural resources
- Need for special treatment for agricultural, with distinctive and simple rules
- How will the Protocol be implemented at the national level?

Brazil Trade Balance 2010-2012

- BRG international trade in Brazil reached US\$ 113 billion
- Imports average US\$ 23,2 billion
 - BRG accounted for 11% of total Brazilian imports
- Export average US\$ 90 billion
 - 38.5% of total exports of the country and about 3.5% of the GDP

Brazil Trade Balance 2010-2012

- Agribusiness (agriculture; silviculture; agroindustry; livestock; e aquaculture)
 - 65% of imports
 - 92% of exports of BRG
- Chemical and pharmaceuticals - total deficit of US\$ 8.4 bi
 - 36% of imports of BRG
 - 4% of Brazilian imports
- Natural Rubber
 - deficit balance US\$ 800 mi
 - Imp/exp: 19 times

Trade Balance 2010-2012

Brazil exports products of low value

Sectors

Average Value
EXPORTS
US\$/Kg (a)

Average Value
IMPORTS
US\$/Kg (b)

a-b

agribusiness

5,6

4,4

1,2

agriculture

1,8

2,7

-0,9

agriculture and agribusiness

16,5

25,6

-9,1

livestock

2,6

5,2

-2,6

aquaculture

6,1

36,1

-30,0

pharmaceuticals

56,2

94,3

-38,1

hemotherapics (pharmaceuticals)

69,7

289,9

-220,2

organotherapics (pharmaceuticals)

574,0

1359,7

-785,7

chemical

3,6

6,6

-3,0

Thank you!

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