

**Convention on
Biological Diversity**

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**AD HOC OPEN-ENDED WORKING GROUP ON
ACCESS AND BENEFIT-SHARING**

Ninth meeting

Cali, Colombia, 22-28 March 2010

**REPORT OF ASIAN REGIONAL CONSULTATIONS IN SUPPORT OF THE FINALIZATION
OF THE INTERNATIONAL REGIME ON ACCESS & BENEFIT-SHARING**

Note by the Executive Secretary

The Executive Secretary is pleased to circulate herewith, for the information of participants in the ninth meeting of the Ad Hoc Open-ended Working Group on Access and Benefit-sharing, the report of the Regional Consultations for Asia in support of the finalization of the international regime on access and benefit-sharing, which was held in Siem Reap, from 4 to 6 December 2009. The report has already been made available on the website of the regional consultations and is being circulated herewith in the form and languages in which it was adopted by participants.

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Asian Regional Consultations in support of the finalization of the International Regime on Access & Benefit-sharing

4-6 December 2009

Borei Angkor Hotel, Siem Reap, Cambodia

COMMON UNDERSTANDINGS¹

Scope

It was agreed by the group to discuss this in the further negotiation of the international regime.

Benefit-sharing

1. Benefit-sharing arises from the utilization of genetic resources and shall be upon mutually agreed terms in accordance with Article 15, paragraph 7, of the Convention on Biological Diversity.
2. Benefits shared could be monetary and non-monetary (see appendix II of the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising Out of Their Utilization²).
3. Basic principles (for commercial and non commercial uses) as in paragraphs 41-44 of the Bonn Guidelines with the aim of sharing in a fair and equitable way.

Access

1. Access and benefit sharing linkage

Benefit-sharing is realized on the basis of access.

2. Sovereign rights and conditions for access

1. Sovereign right of States to determine access.
2. Endeavour to create conditions to facilitate access.
3. Environmentally sound uses in accordance with the objectives of the Convention.
4. Not to impose restrictions that run counter to the Convention's objectives.
5. Access subject to prior informed consent and mutually agreed terms.³
6. To have transparent national framework and provide for clarity.

Compliance

1. Each Contracting Party needs to take legislative, administrative or policy measures to encourage, monitor and enforce compliance with the national laws and contracts within the framework of the international regime.
2. Support compliance with existing and future national level access and benefit-sharing measures when genetic resources and associated traditional knowledge leave a country:
 - (a) Support is by user countries instituting appropriate measures for users of genetic resources and associated traditional knowledge under their jurisdiction.

¹ Reference to "genetic resources" and "associated traditional knowledge" does not prejudice the outcomes of the negotiations on scope of the International Regime.

² Decision VI/24 A of the Conference of the Parties, annex.

³ A proposal was made by developing countries reading:

"The condition for granting access is the prior informed consent and the fair and equitable sharing of the results of research and development and the benefits arising from the commercial and other utilization of genetic resources and associated traditional knowledge on mutually agreed terms."

There was a different understanding on this by developed countries.

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- (b) The range of measures to be considered for reference could be the relevant provisions set out in the Bonn Guidelines
 - (c) Measures are to prevent the access and use of genetic resources and associated traditional knowledge in violation of national laws and contracts
3. Countries will develop tools to encourage, monitor and enforce compliance.
