

# Chapter 1

<b>200. Is your country implementing bilateral, regional and/or multilateral agreements on activities likely to significantly affect biological diversity outside your country's jurisdiction (14(1c))?</b>	
a) no	
b) no, assessment of options in progress	
c) some completed, others in progress	X
b) yes	
<b>201. Has your country mechanisms in place to notify other States of cases of imminent or grave danger or damage to biological diversity originating in your country and potentially affecting those States (14(1d))?</b>	
a) no	
b) early stages of development	X
c) advanced stages of development	
d) mechanisms in place	
e) no need identified	
<b>202. Has your country mechanisms in place to prevent or minimize danger or damage originating in your State to biological diversity in other States or in areas beyond the limits of national jurisdiction (14(1d))?</b>	
a) no	
b) early stages of development	X
c) advanced stages of development	
d) fully compliant with current scientific knowledge	
e) no need identified	
<b>203. Has your country national mechanisms in place for emergency response to activities or events which present a grave and imminent danger to biological diversity (14(1e))?</b>	
a) no	
b) early stages of development	
c) advanced stages of development	
d) mechanisms in place	X
<b>204. Has your country encouraged international cooperation to establish joint contingency plans for emergency responses to activities or events which present a grave and imminent danger to biological diversity (14(1e))?</b>	
a) no	X
b) yes	
c) no need identified	

## **Decision IV/10. Measures for implementing the Convention [part]**

<b>205. Has your country exchanged with other Contracting Parties information and experience relating to environmental impact assessment and resulting mitigating measures and incentive schemes?</b>	
a) no	
b) information provided to the Secretariat	
c) information provided to other Parties	X
d) information provided on the national CHM	

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<b>206. Has your country exchanged with other Contracting Parties information on measures and agreements on liability and redress applicable to damage to biological diversity?</b>	
a) no	X
b) information provided to the Secretariat	
c) information provided to other Parties	
d) information provided on the national CHM	

## ***Decision V/18. Impact assessment, liability and redress***

<b>207. Has your country integrated environmental impact assessment into programmes on thematic areas and on alien species and tourism?</b>	
a) no	
b) partly integrated	X
c) fully integrated	
<b>208. When carrying out environmental impact assessments does your country address loss of biological diversity and the interrelated socio-economic, cultural and human-health aspects relevant to biological diversity?</b>	
a) no	
b) partly	X
c) fully	
<b>209. When developing new legislative and regulatory frameworks, does your country have in place mechanisms to ensure the consideration of biological diversity concerns from the early stages of the drafting process?</b>	
a) no	
b) in some circumstances	X
c) in all circumstances	
<b>210. Does your country ensure the involvement of all interested and affected stakeholders in a participatory approach to all stages of the assessment process?</b>	
a) no	
b) yes - in certain circumstances	X
c) yes - in all cases	
<b>211. Has your country organised expert meetings, workshops and seminars, and/or training, educational and public awareness programmes and exchange programmes in order to promote the development of local expertise in methodologies, techniques and procedures for impact assessment?</b>	
a) no	
b) some programmes in place	X
c) many programmes in place	
d) integrated approach to building expertise	
<b>212. Has your country carried out pilot environmental impact assessment projects, in order to promote the development of local expertise in methodologies, techniques and procedures?</b>	
a) no	X
b) yes (please provide further details)	

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<b>213. Does your country use strategic environmental assessments to assess not only the impact of individual projects, but also their cumulative and global effects, and ensure the results are applied in the decision making and planning processes?</b>	
a) no	
b) to a limited extent	X
c) to a significant extent	
<b>214. Does your country require the inclusion of development of alternatives, mitigation measures and consideration of the elaboration of compensation measures in environmental impact assessment?</b>	
a) no	
b) to a limited extent	
c) to a significant extent	X
<b>215. Is national information available on the practices, systems, mechanisms and experiences in the area of strategic environmental assessment and impact assessment?</b>	
a) no	
b) yes (please append or summarise)	X

## Further comments on implementation of this Article

### Question 196.

Law No.6938, 31 August 1981 – *Política Nacional de Meio Ambiente* [National Environment Policy]; *Conselho Nacional de Meio Ambiente - CONAMA* [National Environment Council – CONAMA] Resolution No.001/86 makes environmental impact studies and reports obligatory (with language accessible to society), along with public hearings. The CONAMA Resolution No.305, 12<sup>th</sup> June, 2002, determines environmental impact studies for transgenics and Resolution No.237, 19 December, 1997, regulates the national system for environmental licensing.

### Question 197.

The CONAMA Resolution No.001, 1986, makes public hearings obligatory. There is, however, no mechanism yet consolidated for the provision of information on a particular enterprise in a form which is accessible and comprehensible for society to make judgements concerning the advantages and disadvantages of its implementation.

### Question 198.

There is strategic environmental evaluation for infrastructure projects in the Amazon (still under development). The Ministry of Planning has a study that brings up to date the development corridors in Brazil, with the impact evaluation as one of the stages.

### Question 199.

Brazil is a member of Mercosul, the *Tratado de Cooperação da Amazônia* [Amazon Cooperation Treaty]; the United Nations Convention on the Law of the Sea (UNCLOS); International Convention for the Conservation of Atlantic Tunas; *Programa Antártico Brasileiro - PROANTAR* [Brazilian Antarctic Programme - PROANTAR]; and the Migratory Birds Convention Act.

### Question 200.

International Convention for the Protection of Plants; Sanitation Agreements; IMO (water ballast); Stockholm Convention (Brazil participated directly in its elaboration and is in the process of being ratified) – foresees restricted use and, for some, prohibition of persistent organic pollutants (POPs).

## Question 201.

Brazil has a notification mechanism for foot-and-mouth disease in cattle.

## Question 203:

*Sistema Nacional para Prevenção e Combate de Incêndios Florestais - PREVFOGO* [National System for the Prevention and Control of Forest Fires – PREVFOGO]. Created by Decree No.97635, 10<sup>th</sup> April, 1989, PREVFOGO is a programme of the *Instituto Brasileiro do Meio Ambiente e dos Recursos Renováveis - IBAMA* [Brazilian Institute for the Environment and Renewable Natural Resources – IBAMA]. The mandate of IBAMA is to coordinate the organization and implementation of activities necessary for the control, combat and prevention of forest fires. PREVFOGO includes five programmes: Prevention, Control, Combat, Research and Training. Each includes a series of projects. The Prevention Program will monitor forest fire risk and also carry out the measures necessary to minimize it. For more information see: [www.mct.gov.br/clima/comunic\\_old/prevfogo.htm](http://www.mct.gov.br/clima/comunic_old/prevfogo.htm).

*Programa de Prevenção e Controle de Queimadas e Incêndios Florestais na Amazônia Legal - PROARCO* [Prevention and Control Programme for Forest and Savannah Fires in the Legal Amazon - PROARCO]. The goal of this monitoring programme is to identify high risk areas for forest fires. The web site [www.cptec.inpe.br/products/queimadas/](http://www.cptec.inpe.br/products/queimadas/) provides daily bulletins of fire hotspots throughout the country.

Mechanisms have been established for alerts of oil spills.

## Question 205.

With the United States (Environmental Protection Agency – EPA and the United States Development Agency – USDA/FS) and the *Instituto Brasileiro do Meio Ambiente e dos Recursos Renováveis – IBAMA* [Brazilian Institute for the Environment and Renewable Natural Resources – IBAMA] for forest and savannah fires, agrotoxic chemicals. There are regulations regarding the introduction of exotic species. A meeting was held at the Ministry of Environment in October 2002 in Brazil specifically to discuss exotic species (see comment on Article 8h).

## Question 207.

Procedures have been established for environmental impact evaluation in sectoral programmes for mining, hydroelectric dams, transport and rural settlement schemes. The Ministry of Transport has published a manual for good environmental practices in the transport sector. The PROECOTUR determines environmental impact evaluation for tourist destinations.

## Question 208.

Article 3 of Law 6.938, 31<sup>st</sup> August 1981 – *Política Nacional de Meio Ambiente* [National Environment Policy] and *Conselho Nacional de Meio Ambiente - CONAMA* [National Environment Council – CONAMA] Resolution 001/86.

## Question 209.

A *Câmara Temática de Biodiversidade* [Thematic Chamber for Biodiversity] has been established within the *Conselho Nacional de Meio Ambiente - CONAMA* [National Environment Council – CONAMA]. All bills for consideration by the National Congress are appraised by the *Comissão de Meio Ambiente, Minorias e Consumidor* [Environment, Minorities and Consumer Commission]. The *Comissão da Amazônia* [Amazon Commission] reviews and discusses all aspects which deal with or affect the Brazilian Legal Amazon.

## Question 211.

Law No.6938, 31<sup>st</sup> August 1981 – *Política Nacional de Meio Ambiente I* [National Environment Policy] promoted the training and capacity-building component for institutional strengthening in methodologies, techniques and procedures for environmental impact evaluation.

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## Question 214.

Impact mitigation is a legal requirement. Monetary recompensation is required when this is not possible which sometimes is the case of oil spills.

*Diagnóstico da Gestão Ambiental no Brasil* [Diagnosis of Environmental Management in Brazil]. The purpose of the Environmental Management Diagnosis is to identify the status of environmental management in the Federation's states and the Federal District, to establish the baseline from which to begin the implementation of the 2<sup>a</sup> Programa Nacional do Meio Ambiente – PNMAII [Second National Environment Programme – PNMAII]. This diagnosis will assess progress in the formulation and use of tools and environmental policies in the first phase of the Programme and, as such, the criteria for eligibility for their inclusion in the component of Integrated Management of Environmental Problems of the PNMAII:

- forest resources management;
- water resources management;
- waste management;
- economic instruments for environmental management;
- environmental licensing;
- environmental monitoring;
- management of state protected areas;
- decentralisation of environmental management; and
- participation on environmental management.

This institutional diagnosis also includes other instruments and policies with a view to making a more profound study of the *status quo* of environmental management in the country. Likewise, after a little more than a quarter century since the first government initiatives explicitly dealing with general environmental management issues, it assesses the degree of institutional development of this public policy sector in each state. See: [www.mma.gov.br/port/se/pnma2/map.html](http://www.mma.gov.br/port/se/pnma2/map.html).

# Chapter 1

## Article 15 Access to genetic resources

**216. What is the relative priority afforded to implementation of this Article and the associated decisions by your country?**

a) High		b) Medium	X	c) Low	
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**217. To what extent are the resources available adequate for meeting the obligations and recommendations made?**

a) Good		b) Adequate		c) Limiting	X	d) Severely limiting	
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Further comments on relative priority and on availability of resources

Different perceptions were held by the various administrative sectors consulted concerning the fulfilment of this article (non-governmental organisations gave it low priority with extremely limited resources, while government sectors gave it high priority).

### Questions 216 and 217.

Provisional Measure No. 2186-16, 23<sup>rd</sup> August, 2001 created the *Conselho de Gestão do Patrimônio Genético - CGEN* [Council for the Administration and Management of Genetic Patrimony - CGEN]. This Measure deals with access to genetic patrimony, protection of and access to associated traditional knowledge, the sharing of benefits and access to technology and the transfer of technology for its conservation and use, amongst other considerations. Decree 3945, 28<sup>th</sup> September, 2001, defined the composition of the Council and established the norms and regulations for its operation. CGEN is composed of members of the following Ministries: Science and Technology; Health; Justice; Agriculture and Supply; Defence; Culture; Foreign Affairs; Industry; Development; and Foreign Trade. The following institutions also have representatives on the Council: *Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis - IBAMA* [Brazilian Institute for the Environment and Renewable Natural Resources - IBAMA]; *Instituto de Pesquisas Jardim Botânico do Rio de Janeiro - JBRJ* [Research Institute of the Rio de Janeiro Botanical Garden - JBRJ]; *Conselho Nacional do Desenvolvimento Científico e Tecnológico - CNPq* [National Council for Scientific and Technological Development - CNPq]; *Instituto Nacional de Pesquisas da Amazônia - INPA* [National Institute for Amazon Research - INPA]; *Empresa Brasileira de Pesquisa Agropecuária - EMBRAPA* [Brazilian Agricultural and Cattle-Breeding Research Company - EMBRAPA]; *Fundação Oswaldo Cruz - FIOCRUZ* [Oswaldo Cruz Foundation - FIOCRUZ]; *Instituto Evandro Chagas* [Evandro Chagas Institute]; *Fundação Nacional do Índio - FUNAI* [National Indian Foundation - FUNAI]; *Instituto Nacional de Propriedade Intelectual - INPI* [National Institute for Intellectual Property - INPI]; and the *Fundação Cultural Palmares* [Palmares Cultural Foundation]. Financial resources for the CGEN are contemplated in Brazil's Pluri-annual Plan - PPA (Biovida and Genetic Resources) and as a subproject of the UNDP Project BRA 00 21 (GEF). These resources are insufficient, however, to deal with the numerous demands involved. Compliance with this Article requires the establishment of regulations, the definition of concepts (what is equitable, for example), capacity-building (especially of lawyers in this complex field), and research. Two new bills have been presented to Congress, one instituting a change in the composition of the Council, and the other concerning the inclusion of penalties for biopiracy in the Environmental Crimes Law. CGEN has five thematic chambers:

1. *Patrimônio Genético Mantido em Condições Ex Situ* [Genetic Patrimony Maintained *Ex Situ*]. Includes CGEN members with responsibilities for, access to, and the consignment of, genetic patrimony maintained *ex situ*, along with invited specialists and representatives of society, and to debate specific technical, scientific and political aspects whenever expedient. It is composed of seven Council members (official representatives and their named substitutes) from: The Ministry of Science and Technology, Ministry of Health, EMBRAPA, IBAMA, INPA, CNPq, and JBRJ, besides specialists invited to debate specific themes, and people invited to represent relevant sectors of society.
2. *Conhecimento Tradicional Associado* [Associated Traditional Knowledge]. Includes CGEN members with direct responsibilities for national genetic resources and the associated traditional knowledge, along with invited specialists and leaders of society, to debate the technical, political and scientific aspects of consequence for the deliberations of the Council. It is composed of 11 Council members (official representatives and their named substitutes) from: The Ministry of Development, Industry and Foreign Trade, Ministry of Justice, INPA, Ministry of Culture, Palmares Cultural Foundation, FUNAI, EMBRAPA, CNPq, IBAMA, INPI, and the Evandro Chagas Institute, besides specialists invited to debate specific themes, and people invited to represent relevant sectors of society.

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3. *Repartição de Benefícios* [Benefit Sharing]. Includes CGEN members with the responsibility of identifying and establishing appropriate measures concerning benefit sharing in the use of genetic resources and associated traditional knowledge, besides those already treated by law. Specialists, leaders of society, particularly those with the relevant traditional knowledge, are invited to debate the technical, political and scientific aspects, providing an informed basis for the Council's decisions. It is composed of 12 members (official representatives and their named substitutes) from: CNPq, the Ministry of Justice, Ministry of Culture, Ministry of Development, Industry and Foreign Trade, Ministry of Environment, Ministry of Science and Technology, Ministry of Health, IBAMA, EMBRAPA, FUNAI, INPI, and the Palmares Cultural Foundation.
4. *Procedimentos Administrativos* [Administrative Procedures]. Includes CGEN members with responsibilities for themes related to authorization for access to, and the consignment of, genetic resources and associated traditional knowledge, as well as representatives of interested institutions, and specialists who provide an informed basis for establishing the procedures and processes for requests to the CGEN, while taking the appropriate measures for safety and control, but avoiding excessive bureaucracy. The Council has six members (official representatives and their named substitutes) from: The Ministry of Health, Ministry of Defence, the Palmares Cultural Foundation, FUNAI, CNPq and IBAMA.
5. *Acesso à Tecnologia e Transferência de Tecnologia* [Access to Technology and Technology Transfer]. Includes CGEN members with responsibilities for access to and the transfer of technologies in such a way as to promote debate on technical, political and scientific aspects to subsidize Council decisions. It has 11 members, (official representatives and their named substitutes) from: the Ministry of Science and Technology, Ministry of Environment, Ministry of Foreign Affairs, Ministry of Culture, Ministry of Agriculture and Supply, Ministry of Health, Ministry of Development, Ministry of Industry and Foreign Trade, Oswaldo Cruz Foundation, EMBRAPA, INPI and CNPq. Specialists may be invited, along with *ad hoc* consultants, to assist the members when necessary.

The legislation on this issue is still being consolidated. It began with a proposal from Senator Marina Silva in 1995, which was sanctioned as a bill in 1998, proposed by Senator Osmar Dias based on Senator Marina Silva's proposal.

*Programa Brasileiro de Ecologia Molecular para o Uso Sustentável da Biodiversidade da Amazônia – PROBEM* [Brazilian Programme for Molecular Ecology for the Sustainable Use of Amazon Biodiversity – PROBEM]. The purpose of this programme is to support bioindustrial development, especially in the Amazon, with a strong emphasis on the generation of knowledge and the transfer of modern technology through partnerships between research institutions and the private sector. Budget, contemplated in the Pluri-annual Plan - PPA (2000-2003), is R\$45.9 million. The institution responsible is the Ministry of Environment.

<b>218. Has your country endeavoured to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties (15(2))?</b>	
a) no	
b) yes – limited extent	X
c) yes – significant extent	
<b>219. Is there any mutual understanding or agreement in place between different interest groups and the State on access to genetic resources (15(4))?</b>	
a) no	
b) yes – limited extent	X
c) yes – significant extent	
<b>220. Has your country an open participation planning process or any other process in place, to ensure that access to resources is subject to prior informed consent (15(5))?</b>	
a) no	
b) early stages of development	
c) advanced stages of development	
d) processes in place	X

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**221. Has your country taken measures to ensure that any scientific research based on genetic resources provided by other Contracting Parties is developed and carried out with the full participation of such Contracting Parties (15(6))?**

a) no measures	
b) some measures in place	X
c) potential measures under review	
d) comprehensive measures in place	

**222. Has your country taken measures to ensure the fair and equitable sharing of the results of research and development and the benefits arising from the commercial and other use of genetic resources with any Contracting Party providing such resources (15(7))?**

a) no measures	
b) some measures in place	X
c) potential measures under review	
d) comprehensive measures in place	
If so, are these measures	
a) Legislation	
b) Statutory policy or subsidiary legislation	
c) Policy and administrative measures	X

**Decision II/11 and Decision III/15. Access to genetic resources**

**223. Has your country provided the secretariat with information on relevant legislation, administrative and policy measures, participatory processes and research programmes?**

a) no	
b) yes, within the previous national report	X
c) yes, through case studies	
d) yes, through other means (please give details below)	

**224. Has your country implemented capacity-building programmes to promote successful development and implementation of legislative, administrative and policy measures and guidelines on access, including scientific, technical, business, legal and management skills and capacities?**

a) no	
b) some programmes covering some needs	X
c) many programmes covering some needs	
d) programmes cover all perceived needs	
e) no perceived need	

**225. Has your country analysed experiences of legislative, administrative and policy measures and guidelines on access, including regional efforts and initiatives, for use in further development and implementation of measures and guidelines?**

a) no	
b) analysis in progress	X
c) analysis completed	

**226. Is your country collaborating with all relevant stakeholders to explore, develop and implement guidelines and practices that ensure mutual benefits to providers and users of access measures?**

a) no	
b) yes – limited extent	X
c) yes – significant extent	



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<b>227. Has your country identified national authorities responsible for granting access to genetic resources?</b>	
a) no	
b) yes	X
<b>228. Is your country taking an active role in negotiations associated with the adaptation of the International Undertaking on Plant Genetic Resources for Food and Agriculture?</b>	
a) no	
b) yes	X
<b>Decision V/26. Access to genetic resources</b>	
<b>229. Has your country designated a national focal point and one or more competent national authorities to be responsible for access and benefit-sharing arrangements or to provide information on such arrangements?</b>	
a) no	
b) yes	X
c) yes, and Executive Secretary notified	
<b>230. Do your country's national biodiversity strategy, and legislative, administrative or policy measures on access and benefit-sharing, contribute to conservation and sustainable use objectives?</b>	
a) no	
b) to a limited extent	X
c) to a significant extent	
<b>Parties that are recipients of genetic resources</b>	
<b>231. Has your country adopted administrative or policy measures that are supportive of efforts made by provider countries to ensure that access to their genetic resources is subject to Articles 15, 16 and 19 of the Convention?</b>	
a) no	X
b) other arrangements made	
c) yes	
<b>232. Does your country co-operate with other Parties in order to find practical and equitable solutions to support the efforts of provider countries to ensure that access to their genetic resources is subject to Articles 15, 16 and 19 of the Convention, recognizing the complexity of the issue, with particular consideration of the multiplicity of prior informed-consent considerations?</b>	
a) no	X
b) yes (please provide details)	
<b>233. In developing its legislation on access, has your country taken into account and allowed for the development of a multilateral system to facilitate access and benefit-sharing in the context of the International Undertaking on Plant Genetic Resources?</b>	
a) no	
b) legislation under development	
c) yes	X
<b>234. Is your country coordinating its positions in both the Convention on Biological Diversity and the International Undertaking on Plant Genetic Resources?</b>	
a) no	
b) taking steps to do so	
c) yes	X

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<b>235. Has your country provided information to the Executive Secretary on user institutions, the market for genetic resources, non-monetary benefits, new and emerging mechanisms for benefit sharing, incentive measures, clarification of definitions, <i>sui generis</i> systems and "intermediaries"?</b>	
a) no	X
b) some information provided	
c) substantial information provided	
<b>236. Has your country submitted information on specific issues related to the role of intellectual property rights in the implementation of access and benefit-sharing arrangements to the Executive Secretary?</b>	
a) no	X
b) yes	
<b>237. Has your country provided capacity-building and technology development and transfer for the maintenance and utilization of <i>ex situ</i> collections?</b>	
a) no	
b) yes to a limited extent	X
c) yes to a significant extent	

## Further comments on implementation of this Article

### Question 218.

Contemplated in Decree 4339, 22<sup>nd</sup> August 2002, Directive 9, Item 4 (see Chapter 2).

Brazil has legislation in place which regulates access to genetic resources, facilitating its use by other contracting parties.

See also comments on questions 216 and 217.

### Question 219.

There is legislation that allows for contracts with government consent (Article 16 of the Provisional Measure 2186, 23<sup>rd</sup> August, 2001 and CGEN Resolution 001). No contract has been approved by CGEN.

### Question 220.

Article 16 of the Provisional Measure 2186-16, 23<sup>rd</sup> August, 2001, establishes access to components of Brazilian genetic patrimony through the *Consentimento Prévio Informado* [Prior Informed Consent].

### Question 222.

Brazil is a signatory of the FAO Treaty for Genetic Resources for Food and Agriculture, and is discussing its implementation.

### Question 225.

Legislation and decrees from other countries, such as those of the Andean Pact, Costa Rica and Philippines, have been analysed, providing a basis for the Provisional Measure 2186-16, 23<sup>rd</sup> August, 2001, and future laws on this aspect.

### Question 226.

The Ministry of Environment is discussing models for benefit-sharing contracts within the *Programa Brasileiro de Ecologia Molecular para o Uso Sustentável da Biodiversidade da Amazônia – PROBEM* [Brazilian Programme for Molecular Ecology for the Sustainable Use of Amazon Biodiversity – PROBEM].

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**Question 227.**

*Conselho de Gestão do Patrimônio Genético – CGEN* [Council for the Administration and Management of Genetic Patrimony – CGEN].

**Question 228.**

Brazil has been a signatory since June 2002.

**Question 229.**

The Executive Secretariat of *Conselho de Gestão do Patrimônio Genético – CGEN* [Council for the Administration and Management of Genetic Patrimony – CGEN] is the National Focal Point.

**Question 230.**

Component 5 of Decree 4339 22<sup>nd</sup> August, 2002 contemplates the reversion of benefits to biodiversity conservation and sustainable use.

**Question 231.**

Brazilian legislation only considers Brazil as a genetic resource provider, and not a genetic resource receiver.

As a country providing genetic resources, Brazil guarantees the return of benefits as stated in the Provisional Measure 2186-16, 23<sup>rd</sup> August, 2001. As a receiver, Brazil will follow what has been established in the FAO Treaty for Genetic Resources for Food and Agriculture and the Convention on Biological Diversity.

**Question 233.**

Contemplated in the Provisional Measure 2186-16, 23<sup>rd</sup> August, 2001.

**Question 234.**

Brazil coordinates with other countries of the G77.

**Question 236**

Brazil has not submitted such information to the Executive Secretary. However, a Brazilian proposal has been presented in the revision process of the Trade Related Aspects of Intellectual Property Rights (TRIPS). This proposal intends to specify the Brazilian obligations on the CBD's rules in the WTO's ambit.

**Question 237.**

EMBRAPA provides training and capacity-building in Central American and African countries.

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## Article 16 Access to and transfer of technology

<b>238. What is the relative priority afforded to implementation of this Article and the associated decisions by your country?</b>			
a) High		b) Medium	X
c) Low			
<b>239. To what extent are the resources available adequate for meeting the obligations and recommendations made?</b>			
a) Good		b) Adequate	X
c) Limiting			
d) Severely limiting			
Further comments on relative priority and on availability of resources			
<b>Question 239.</b>			
<p>There is a chapter on technology access and transfer (Brazil as a receiver) in Provisional Measure 2186, 23<sup>rd</sup> August, 2001. The <i>Conselho de Gestão do Patrimônio Genético – CGEN</i> [Council for the Administration and Management of Genetic Patrimony – CGEN] has a <i>Câmara Técnica sobre Acesso e Transferência de Tecnologia</i> [Thematic Chamber on Access to Technology and Technology Transfer] (see comments on Question 217). The government initiative on Innovation and Technology (Ministry of Science and Technology - MCT) and the <i>Centro de Gestão de Estudos Estratégicos</i> [Strategic Studies Management Centre] promote high level prospective studies and research in science and technology and their relation with productive sectors. See: <a href="http://www.cgee.org.br">www.cgee.org.br</a>.</p> <p><i>Serviços Virtuais para Transferência de Tecnologia da Empresa Brasileira de Pesquisa Agropecuária</i> (EMBRAPA) [Virtual Services For Technology Transfer of the Brazilian Agricultural and Cattle-Breeding Research Company – EMBRAPA]. <i>Projeto Diagnose Virtual</i> [Virtual Diagnosis Project]: Environment and plant and animal health, which besides allowing the remote diagnosis of diseases, also enables producers and extensionists to have greater access to EMBRAPA's veterinarians and phytopathologists through virtual consultation. A special system for corn specialists was developed. See: <a href="http://diagnose.cnptia.embrapa.br/">http://diagnose.cnptia.embrapa.br/</a>.</p>			
<b>240. Has your country taken measures to provide or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment (16(1))?</b>			
a) no measures			
b) some measures in place			X
c) potential measures under review			
d) comprehensive measures in place			
<b>241. Is your country aware of any initiatives under which relevant technology is transferred to your country on concessional or preferential terms (16(2))?</b>			
a) no			X
b) yes (please give brief details below)			
<b>242. Has your country taken measures so that Contracting Parties which provide genetic resources are provided access to and transfer of technology which make use of those resources, on mutually agreed terms (16(3))?</b>			
a) not relevant			
b) relevant, but no measures			X
c) some measures in place			
d) potential measures under review			
e) comprehensive measures in place			
If so, are these measures			
a) Legislation			
b) Statutory policy or subsidiary legislation			
c) Policy and administrative arrangements			X

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<b>243. Has your country taken measures so that the private sector facilitates access to joint development and transfer of relevant technology for the benefit of government institutions and the private sector of developing countries (16(4))?</b>	
a) no measures	X
b) some measures in place	
c) potential measures under review	
d) comprehensive measures in place	
If so, are these measures	
a) Legislation?	
b) Statutory policy and subsidiary legislation?	
c) Policy and administrative arrangements?	
<b>244. Does your country have a national system for intellectual property right protection (16(5))?</b>	
a) no	
b) yes	X
<b>245. If yes, does it cover biological resources (for example, plant species) in any way?</b>	
a) no	
b) yes – limited extent	X
c) yes – significant extent	

## **Decision III/17. Intellectual property rights**

<b>246. Has your country conducted and provided to the secretariat case-studies of the impacts of intellectual property rights on the achievement of the Conventions objectives?</b>	
a) no	X
b) some	
c) many	

### **Further comments on implementation of this Article**

#### **Question 242.**

Access legislation has yet to be regulated and refined.

#### **Question 244.**

The *Instituto Nacional da Propriedade Industrial – INPI* [National Institute for Industrial Property – INPI] is a Federal Autarchy, created in 1970, linked to the Ministry of Development, Industry and Foreign Trade ([www.mdic.gov.br](http://www.mdic.gov.br)). Its main purpose, according to Law 9.279/96 (Industrial Property Law), is to execute nationally the norms regulating industrial property, considering its roles on social, political, legal and technical terms. It is also its function to articulate the signing, ratification and denunciation of conventions, treaties, pacts and agreements on industrial property ([www.inpi.gov.br](http://www.inpi.gov.br)).

#### **Question 245.**

The Industrial Property Law prohibits the patenting of organisms and their components but allow the patenting of products and processes that use genetically modified microorganisms.

Law No.9456, 25<sup>th</sup> April 1997, *Lei de Proteção de Cultivares* [Law for the Protection of Cultivars], regulated by Decree No. 2366, 5<sup>th</sup> November, 1997.

#### **Question 246.**

The Secretariat has not been informed. There is a case study of contracts for access and benefit-sharing available at: [www.mma.gov.br](http://www.mma.gov.br).

# Chapter 1

## Article 17 Exchange of information

<b>247. What is the relative priority given to the implementation of this Article and the associated decisions by your country?</b>					
a) High		b) Medium	X	c) Low	
<b>248. To what extent are the resources available adequate for meeting the obligations and recommendations made?</b>					
a) Good		b) Adequate		c) Limiting	X
d) Severely limiting					
Further comments on relative priority and on availability of resources					
<p><b>Questions 247. and 248.</b></p> <p>Brazil supported the structuring of a biodiversity portal ("binbr project" concluded in 2001) of the Inter-American Biodiversity Information Network - IABIN, by holding a workshop in Brazil in 1999. Important sites include: IBGE (<a href="http://www.ibge.gov.br">www.ibge.gov.br</a>), MMA (<a href="http://www.mma.gov.br">www.mma.gov.br</a>), IBAMA (<a href="http://www.ibama.gov.br">www.ibama.gov.br</a>), EMBRAPA (<a href="http://www.embrapa.gov.br">www.embrapa.gov.br</a>), and INPE (<a href="http://www.inpe.gov.br">www.inpe.gov.br</a>).</p> <p>The Ministry of Environment (MMA) supported a number of studies and made them available on-line: a review of the Articles of the CBD's and their effectiveness in Brazil (10 documents – GTTS); analysis of the biodiversity strategies of 46 countries; biodiversity profiles for seven themes and general synthesis; priority areas and actions for the Brazilian biomes; thematic reports of recommendations for each article of the Convention for national biodiversity policy (10 documents); summary of the Brazilian programmes that interface with biodiversity themes; traditional knowledge and biodiversity; accommodation of Brazilian legislation for compliance with the Convention on Biological Diversity; case study of benefit-sharing, giving value to natural resources (available at: <a href="http://www.mma.gov.br/port/sbf/chm/relpub.html#manual">www.mma.gov.br/port/sbf/chm/relpub.html#manual</a>) (two documents), among others. Available at <a href="http://www.mma.gov.br">www.mma.gov.br</a>.</p> <p>The mission of the <i>Instituto Brasileiro de Informação em Ciência e Tecnologia – IBICT</i> [Brazilian Institute for Information in Science and Technology – IBICT], created in the 50's, is to promote the development of the information sector by proposing policies, research, and divulging innovations which contribute to scientific progress and competitiveness in Brazilian technology (see: <a href="http://www.ibict.br">www.ibict.br</a>).</p> <p><i>Programa Prossiga</i> [Prossiga Programme]. Set up in 1995, the aim of this programme is to promote the creation and use of internet information services for the priority areas of the Ministry of Science and Technology, reinforcing the presence of Brazilian scientific and technological information on the Net through increased visibility and accessibility. See <a href="http://www.prossiga.br">www.prossiga.br</a>.</p> <p><i>Governo Eletrônico (e-gov)</i> [Electronic Government (e-gov)]. The purpose of this site is to provide information and services from the Brazilian government to the society (Resolution No. 12, 14<sup>th</sup> November, 2002 of the <i>Comitê Executivo do Governo Eletrônico</i> [Executive Committee of the Electronic Government]). See <a href="http://www.e.gov.br">www.e.gov.br</a>.</p> <p><i>Projeto BIOTA-FAPESP – O Programa de Pesquisas em Caracterização, Conservação e Uso Sustentável da Biodiversidade do Estado de São Paulo</i>, [The BIOTA-FAPESP Project - Research Programme for the Characterization, Conservation and Sustainable Use of the Biodiversity of the State of São Paulo], <i>Instituto Virtual da Biodiversidade</i> [Virtual Biodiversity Institute]. Financed by the <i>Fundação de Amparo à Pesquisa do Estado de São Paulo – FAPESP</i> [São Paulo State Research Support Foundation –FAPESP], this is a major initiative of the scientific community of the state of São Paulo based on the premises of the Convention on Biological Diversity. See <a href="http://www.biota.org.br">www.biota.org.br</a>.</p> <p><i>Programa Sociedade da Informação</i> [Information Society Program]. A programme of the Ministry of Science and Technology to include Brazil in the Information Society and stimulate competitiveness of the national economy in global markets. The aim is to integrate, coordinate and promote actions for information and communication of the use of technology. It was developed from a study of the <i>Conselho Nacional de Desenvolvimento Científico e Tecnológico – CNPq</i> [National Council for Scientific and Technological Development] and instituted by Decree No. 3294, 15<sup>th</sup> December, 1999. It is part of a group of projects contemplated in the Pluri-annual Plan (PPA) 2000-2003. Budget" approximately R\$3.4 billion. Coordinated by the Ministry of Science and Technology. <i>O Livro Verde</i> [The Green Book] is a preliminary proposal of directives, instructions, lines of action and activities for the Programme. It suggests measures for the planning, execution and monitoring of each line of action. It was written by more than 100 specialists, from the private sector, academia and government.</p>					

# Chapter 1

The Ministry of Environment (MMA) is the focal point for the Clearing House Mechanism of the CBD. Resources are lacking for computerized databases for collections, master's dissertations and doctoral theses.

## Question 249.

*Sistema Brasileiro de Educação Ambiental e Práticas Sustentáveis – SIBEA* [Brazilian System of Environmental Education and Sustainable Practices].

*Sistema Nacional de Informação sobre o Meio Ambiente – SINIMA* [National Information System for the Environment – SINIMA]. Established by Law 6.938/81, Article 9, as one of the instruments for the implementation of the *Política Nacional do Meio Ambiente - PNMA* [National Environment Policy – PNMA]. Its purpose is to institutionalise the information needed to support decisions on environmental issues, allowing for rapid acquisition and updating, increasing the availability of vital services and information. See [www2.ibama.gov.br/~cnia/sinima.htm](http://www2.ibama.gov.br/~cnia/sinima.htm).

*Sistema Brasileiro de Informação de Recursos Genéticos – SIBRARGEN* [Brazilian Genetic Resources Information System – SIBRAGEN]. See [www.cenargen.embrapa.br](http://www.cenargen.embrapa.br).

*Sistema de Informação da Amazônia – SIAMAZ* [Amazon Information System – SIAMAZ].

*Programa Proteção da Amazônia (Sistema de Proteção da Amazônia - SIPAM / Sistema de Vigilância da Amazônia – SIVAM)* [Amazon Protection Programme (Amazon Protection System - SIPAM / Amazon Vigilance System – SIVAM)]. See comments on Article 7.

*Zoneamento Ecológico-Econômico - ZEE* [Ecological-Economic Zoning – ZEE]. See comments on Article 8.

*Sistema de Disponibilização de Informações Geográficas Brasileiras para a Sociedade - GEOBRASIL* [System for Making Brazilian Geographic Information Systems Available to Society – GEOBRASIL]. Includes journals, books, reports and a website [www.infogeo.com.br](http://www.infogeo.com.br).

*Programa de Avaliação do Potencial Sustentável dos Recursos Vivos da Zona Econômica Exclusiva – REVIZEE* [Programme for Assessing the Sustainable Potential of the Living Resources of the Exclusive Economic Zone – REVIZEE]. See comments on Article 14.

**249. Has your country taken measures to facilitate the exchange of information from publicly available sources (17(1))?**

a) no measures	
b) restricted by lack of resources	
c) some measures in place	X
d) potential measures under review	
e) comprehensive measures in place	

*If a developed country Party - Does not apply*

**250. Do these measures take into account the special needs of developing countries (17(1))?**

a) no	
b) yes – limited extent	
c) yes – significant extent	

**251. If so, do these measures include all the categories of information listed in Article 17(2), including technical, scientific and socio-economic research, training and surveying programmes, specialized knowledge, repatriation of information and so on? Not applicable**

a) no	
b) yes – limited extent	
c) yes – significant extent	