

**CONVENTION ON
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**AD HOC OPEN-ENDED WORKING
GROUP ON ACCESS AND
BENEFIT-SHARING**First meeting
Bonn, 22-26 October 2001**ACCESS AND BENEFIT-SHARING AND THE GLOBAL TAXONOMY INITIATIVE***Note by the Executive Secretary***I. INTRODUCTION**

1. The purpose of this document is to inform the Ad Hoc Open-ended Working Group on Access and Benefit-Sharing (Working Group on ABS) of the possible impact on taxonomic research of measures to address access and benefit-sharing (ABS). Section II examines the requirements of taxonomic research. Section III examines the relationship between access and benefit-sharing and the Global Taxonomy Initiative (GTI). In section IV, proposals are made to ensure that the particular needs of taxonomic research are taken into account in the development of guidelines or other measures on access and benefit-sharing.

**II. THE GLOBAL TAXONOMY INITIATIVE AND THE REQUIREMENTS OF
TAXONOMIC RESEARCH**

2. Taxonomic research is defined as the sampling and collection of organisms for the purpose of naming and classifying them. Specimens acquired through taxonomic research are not collected with the intention of exploiting their genetic components.

3. The Global Taxonomy Initiative was authorized by the Conference of the Parties at its fourth meeting, through decision IV/1 D. At its fifth meeting, the Conference of the Parties established a Global Taxonomy Initiative Coordination Mechanism to assist the Executive Secretary to facilitate international cooperation and coordinate activities under the GTI (decision V/9).

4. The GTI is established with the aim of removing the “taxonomic impediment”, i.e. the limitations of taxonomic personnel, skills, information, infrastructure and capacity which hinder or prevent the implementation of the Convention on Biological Diversity.

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5. At its sixth meeting, the Subsidiary Body on Scientific, Technical and Technological Matters (SBSTTA) recommended a draft programme of work for the GTI (UNEP/CBD/COP/6/3), which will be discussed at the sixth meeting of the Conference of the Parties, in April 2002. Within the programme of work, attention is drawn to the need for development of regional networks of individuals and institutions providing taxonomic expertise. A benefit of such networks is that each country does not have to maintain an expert in every taxonomic group of importance, but only in some of them. Identification and research can be undertaken across the network, with collaboration between specialists in different countries. Several examples of such networks are already in existence, comprising experts and institutions in three or more countries.

6. In practice, many projects directed at increasing each Party's knowledge of its biodiversity, and providing information which will enable Parties to more fully meet their obligations under the Convention, are undertaken by multinational teams. These teams may be assembled according to the particular needs being addressed.

7. Multinational networks, and teams carrying out research across national borders, can only function in support of the Convention if permission is granted by the countries concerned to carry out research and to export, either temporarily or permanently, specimens collected within their borders.

8. Participants in the Coordination Mechanism for the GTI made the following statement in their meeting in November 2000:

“Biological species do not observe national boundaries, and can only be understood and sustained if their variation can be studied and assessed in the natural habitats throughout their entire geographic range. Much taxonomic research depends on transnational activities and international cooperation involving joint fieldwork, travel of personnel, and the frequent exchange of data, samples, and biological specimens. The Coordination Mechanism advises the Executive Secretary to urge Parties to the Convention to facilitate such efforts of international cooperation for taxonomic research as are needed to help implementing activities of the Convention by *inter alia* establishing clear and unambiguous mechanisms for granting the necessary permissions for approved research projects, field work, collection of biological specimens, and free exchange of personnel, data and relevant materials.”

9. Permission may be required for a number of project elements, for example:

- (a) To conduct research;
- (b) To collect specimens;
- (c) To export specimens;
- (d) To retain specimens (details of ownership, including possibilities of collection-sharing across regions and long-term loan);
- (e) To conduct different types of analysis (e.g. morphological, molecular or genetic);
- (f) To exchange specimens freely outside the country;
- (g) To publish data about the specimens (particularly distributional data);
- (h) To import necessary equipment and chemicals to carry out the research (preferably with tax exemption);

- (i) For visas for visiting researchers.
10. Conditions may also be required, such as:
- (a) A fee to be paid;
 - (b) A national counterpart to be funded to participate in fieldwork;
 - (c) A list of specimens to be collected or exported to be provided in advance (possible in case of some vertebrates, but not with invertebrates, plants and micro-organisms). This is particularly inapplicable in the context of inventorying or other taxonomic research;
 - (d) A limit in the numbers of samples collected or exported;
 - (e) A limitation in the types of collecting methods to be used;
 - (f) Return of types, vouchers, unique specimens or some proportion of the material collected, once identified;
 - (g) Deposition of samples in a national institution before export;
 - (h) A time restriction for this to take place;
 - (i) Provision to relevant bodies of all publications;
 - (j) Agreements on intellectual property rights/benefit-sharing in the case of active chemicals being identified at any date in the future;
 - (k) Access to specimens collected and relevant data deposited abroad to be available to all citizens of the host country.
11. Permission may also be required from the home country of the researcher, or the host country where research is to be carried out, if different from the country where material is collected. Such permissions may include:
- (a) Import permits;
 - (b) Access to collected material by extra-national researchers.

III. THE RELATIONSHIP BETWEEN ACCESS AND BENEFIT-SHARING AND THE GLOBAL TAXONOMY INITIATIVE

12. For any one of the conditions or requirements mentioned above, obtaining permission may involve several ministries, and lines of responsibility may be unclear. Permission may also be needed from local bodies, such as protected area managers, village councils etc. Specific ecosystems, such as caves, or designated use areas such as archaeological sites, may be subject to restrictive permissions by ministries or departments not associated with those granting collecting permission. Some countries have no national system, but provinces and their respective nature conservation authorities supervise the granting of permits within their boundaries. The lead time required may be so great (18 months or more) that carrying out the research is impossible (e.g. for research carried out by PhD students), and legislation may change during

the period. Details of who should be approached are often not readily available, and in practice a local representative may need to be employed to facilitate permission being granted, involving expenses that are difficult to budget.

13. Greater clarity is urgently required on the protocols and requirements of Parties, including contact points. In this connection it will be recalled that, in its decision V/26A, on access to genetic resources, the Conference of the Parties requested “Parties to designate a national focal point and one or more competent authorities, as appropriate, on access and benefit-sharing arrangements or to provide information on such arrangements within its jurisdiction”. The Executive Secretary issued a Notification on 25 August 2000 pursuant to this decision asking for the information to be transmitted to the Secretariat. This was reiterated in a notification dated 23 July 2001, which included an explanatory note covering the implications for activity under the GTI, including reference to the issues covered here (see the annex to this document). Thus far, 23 Parties have designated national focal points and only 15 have designated competent national authorities. Finally, it should be noted that the possible roles and responsibilities of these national focal points and competent national authorities are addressed in paragraphs 21 and 22 of the note by the Executive-Secretary on elements for consideration in the development of guidelines and other approaches for access to genetic resources and benefit-sharing. (UNEP/CBD/WG-ABS/1/3).

14. The Working Group may wish to consider the need for clarity regarding national measures regulating access to genetic resources and the streamlining of application processes with respect to taxonomic research in the development of international guidelines for access and benefit-sharing arrangements. Legal certainty and clarity are suggested as basic principles of a prior informed consent system in paragraph 34 of the above-mentioned note by the Executive Secretary.

15. Legislation enacted by countries in respect of collecting for taxonomic purposes generally covers all collecting, i.e. including for biochemical or genetic research. No distinction is therefore made between taxonomic research and bioprospecting.

16. A risk in developing international guidelines and consequently national measures for access to genetic resources that are too complex or restrictive is that they will operate to limit taxonomic research, and thus hinder the implementation of the Convention. In paragraph 3 of decision V/26A, the Conference of the Parties urges Parties to “ensure that ... legislative, administrative or policy measures on access and benefit-sharing contribute to conservation and sustainable-use objectives”. An aim of the guidelines to be produced should therefore be that, in promoting one area of activities under the Convention, such as access and benefit-sharing, another aspect of work under the Convention, i.e. progress with respect to taxonomic research and removing the taxonomic impediment, is not hindered.

17. To address these concerns, it has been suggested that the mechanisms for granting permission to access genetic resources for different types of work (ranging from research to commercialization) need not all be the same, so long as the rights of Parties are protected adequately. The specific needs of taxonomic research may require a faster and more streamlined approach than permissions needed for other applications, such as commercialization.

18. The uses to which material collected for taxonomic work might be put in pursuance of this end include: study using light microscope, electron microscopy, scanning electron microscopy and other visualization techniques; dissection and examination of internal structures; sequencing of DNA and RNA to compare sequence data with that of other species, or to develop DNA probes for rapid identification of a species or strain (but not for commercial exploitation or transmission to a third party who might commercially utilize the results of the work); analysis of chemical constituents of the specimens for

comparison with those of other organisms and development of specific markers (but not for commercial exploitation or transmission to a third party who might so commercially utilize the results of the work); and publication of the analyses in freely-available formats. Specimens might be deposited in collections in museums, herbaria or culture collections. Publications might include descriptions of new species, keys to identify species or other taxa, studies of relationships of species or other taxa, lists or catalogues of animals, plants or micro-organisms, and investigations of morphological, biochemical or molecular structures and constituents.

19. Biological inventories and taxonomic studies are already recognized as non-monetary benefits to be considered under access and benefit-sharing (see UNEP/CBD/COP/5/8, para. 77, UNEP/CBD/EP-ABS/2/2 para. 40, UNEP/CBD/WG-ABS/1/3, para. 57(k)), as is the necessary information management capacity (Decision V/26A, para. 14 (a)). Other benefits arising from taxonomic research include: institutional and personal relationships arising from an agreement and subsequent collaboration, capacity development, assessment and support for other activities under the Convention on Biological Diversity.

20. In order to avoid abuse, possible subsequent use of specimens collected for taxonomic research for other purposes must also be considered. Thus, specimens, although collected for taxonomic study, may in some cases also be usable as a genetic resource, not only immediately but in the future, given that technological advances may make it possible to extract genes or active chemicals from preserved specimens many years after collection.

IV. PROPOSALS FOR CONSIDERATION BY THE WORKING GROUP ON ABS

21. In paragraph 43 of document UNEP/CBD/WG-ABS/1/3, the Executive Secretary suggested two options to address this concern:

(a) Prior informed consent should be based on the specific uses for which consent has been requested. While prior informed consent may initially be granted for one set of uses, any intended change of use may require a new application for prior informed consent. Permitted uses should be clearly stipulated and further prior informed consent for changes or unforeseen uses should be required;

(b) Alternatively, mutually agreed terms in prior informed consent should cover a broad enough range of circumstances to cover any possible future uses.

22. Given the breadth of possible uses, and the specific needs of taxonomic research, the first of these two options could be most appropriate. Thus, a tiered system might be devised that enabled in the first instance permission to be granted for collection of specimens for taxonomic research, including arrangements for sharing and deposition of material and continued information exchange regarding results of research, but which specifically excludes consent for exploitation of the genetic resources of the material. Any request for further use would involve a new agreement on access and benefit sharing, with respect to those uses.

23. In paragraph 51 (f) of the same document, it is suggested that basic requirements for mutually agreed terms include the development of different contractual arrangements for different resources and for different uses. In addition, in paragraph 53, “any limitations on the possible use of the material” and “a clause allowing renegotiation of the terms of the agreement in certain circumstances (e.g. change of use)” are suggested as typical mutually agreed terms, for consideration by the Working Group on ABS in the development of guidelines.

Annex

Ref.: SCBD/STTM/CL

23 July 2001

NOTIFICATION

Dear Madam/Sir:

Pursuant to Decision V/26 of the fifth meeting of the Conference of the Parties (COP) to the Convention on Biological Diversity (CBD) on access to genetic resources, and further to my Notification dated 25 August 2000, I wish to reiterate my invitation for Governments to designate National Focal Points and one or more competent authorities to be responsible for access and benefit-sharing arrangements.

As noted in Document UNEP/CBD/SBSTTA/6/INF/4 the Coordination Mechanism of the Global Taxonomy Initiative has identified a need to facilitate international cooperation for taxonomic research by *inter alia* granting the necessary permissions for approved research projects, fieldwork, collection of biological specimens and free exchange of personnel, data and relevant materials. As an initial step towards facilitating such permissions the Competent Authorities might include Ministries, Departments or other Authorities active in this field. I have attached some explanatory details that might assist you in this matter.

I look forward to receiving your response.

Sincerely yours

Hamdallah Zedan
Executive Secretary

To: CBD National Focal Points

ACCESS AND BENEFIT-SHARING ISSUES AND PERMISSION FOR TAXONOMIC RESEARCH: EXPLANATORY NOTE AND SUGGESTIONS FOR DETAILED ACTIONS

1. At its fifth meeting, by decision V/26 on Access to Genetic Resources, under section A, paragraphs 1 and 2, the COP requested Parties to designate a national focal point and one or more competent national authorities, as appropriate, to be responsible for access and benefit-sharing arrangements or to provide information on such arrangements. The COP further requested Parties to notify the names and addresses of these focal points to the Executive Secretary.
2. At its fourth meeting, the COP in decision IV/1 had already suggested to Parties that they should encourage partnerships between institutions in developed and developing countries so as to promote scientific collaboration, and that Parties should assist institutions to establish consortia to conduct regional projects. Further, COP V in Decision V/9 urged Parties, Governments and relevant organizations to undertake priority activities to further the Global Taxonomy Initiative, including Establishment of regional and national reference centers and the building of taxonomic capacity...including through partnerships between national, regional and international reference centers.
3. It has been noted by the Coordination Mechanism of the Global Taxonomy Initiative, building on these suggestions, that “Biological species do not observe national boundaries, and can only be understood and sustained if their variation can be studied and assessed in the natural habitats throughout their entire geographic range. Much taxonomic research depends on transnational activities and international cooperation involving joint fieldwork, travel of personnel, and the frequent exchange of data, samples, and biological specimens.” Because of this the Coordination Mechanism advised the Executive Secretary to “Urge Parties to the Convention to facilitate such efforts of international cooperation for taxonomic research as are needed to help implementing activities of the Convention by *inter alia* establishing clear and unambiguous mechanisms for granting the necessary permissions for approved research projects, field work, collection of biological specimens, and free exchange of personnel, data and relevant materials.”
4. Further to the above-mentioned decisions by the COP and in response to the request of the GTI Coordination Mechanism the Executive Secretary will be taking various actions.
5. In the short term, being aware that permissions under this heading may include such aspects as to: conduct research; collect specimens; export specimens; retain specimens; conduct different types of analysis (e.g. molecular or genetic); exchange specimens freely outside the country; publish data about the specimens (particularly distributional); import necessary equipment and chemicals to carry out the research (preferably with tax exemption), the following actions by Parties might be helpful to facilitate the implementation of the Convention *vis a vis* the GTI:

(a) To designate a National Focal Point and one or more Competent National Authorities, as appropriate, to be responsible for access and benefit-sharing arrangements or to provide information on such arrangements, as requested in section A, paragraphs 1 and 2 of decision V/26 of the COP. The NFP or CNA should take necessary steps at the national level for the requirements of taxonomic permissions to be taken into account.

(b) To make details of Collecting and Export Permit requirements available on the appropriate national web site, together with appropriate contact points (Competent National Authorities).

(c) To make copies of their Collecting and Export Permit requirements available at each of their Embassies or Consulates.

(d) To make copies of Collecting and Export Permit requirements available through the National CBD/GTI Focal Point and Access & Benefit-Sharing Focal Point.

(e) To send copies of Collecting and Export Permit requirements, or reference to a web site, to the Executive Secretary in order to facilitate exchange of information through the CHM.

(f) CBD Focal Points to note that in any approval process of projects associated with the CBD the CBD focal point should require the matter of granting permissions to have been satisfactorily addressed.

(g) Finally, in order to ensure that developments regarding Access and Benefit-sharing under the Convention take due account of the specific needs of taxonomic research, Parties should ensure that the Ad Hoc Working Group on ABS, at its first meeting in October 2001, take due account of these specific needs in the elaboration of draft guidelines on access to genetic resources and benefit-sharing.
