



**Convention on
Biological Diversity**

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

Eighth meeting

Montreal, 9-15 November 2009

Items 3.4, 3.5 and 3.6 of the provisional agenda*

**COLLATION OF CONTRIBUTIONS SUBMITTED BY PARTIES, GOVERNMENTS,
INTERNATIONAL ORGANIZATIONS, INDIGENOUS AND LOCAL COMMUNITIES AND
RELEVANT STAKEHOLDERS ON COMPLIANCE, FAIR AND EQUITABLE
BENEFIT-SHARING AND ACCESS**

Addendum

SUBMISSION BY SWITZERLAND

Note by the Executive Secretary

1. The Executive Secretary is circulating herewith a submission by Switzerland regarding operational text related to “fair and equitable benefit-sharing”, “access to genetic resources”, “compliance” as an addendum to the collation of contributions on compliance, fair and equitable benefit-sharing and access prepared for the eighth meeting of the Working Group on Access and Benefit-sharing (UNEP/CBD/WG-ABS/8/6 and Add.1-2).

2. The submission is being circulated in the form in which it was received by the Secretariat.

* UNEP/CBD/WG-ABS/8/6/1.

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Annex

SUBMISSION BY SWITZERLAND

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[8 NOVEMBER 2009]

The following submission contains additional operational text on some elements of the ABS-IR that, in our view, is not yet entirely reflected in the draft ABS-IR (Annex UNEP/CBD/WG-ABS/7/8) or in any other submission by Parties and stakeholders to ABS-WG 8.

A. Fair and Equitable Benefit-Sharing

1) Linkage of access to the fair and equitable sharing of benefits

Para. 2: {...} Mutually agreed terms shall be established by the time of access to the genetic resources.

B. Access to genetic resources

1) Recognition of the sovereign rights and the authority of Parties to determine access

Stressing the importance of facilitating access to genetic resources in emergency situations when public health, food security or the biological diversity are seriously threatened {*preambular paragraph*}.

Parties requiring prior informed consent for access to their genetic resources shall provide for accelerated access procedures in emergency situations when public health, food security or the biological diversity are seriously threatened.

C. Compliance

1. Development of tools to encourage compliance

(b) International understanding of misappropriation/misuse

Misappropriation of genetic resources refers to access to genetic resources without prior informed consent and/or mutually agreed terms pursuant to the national access legislation of the country providing the genetic resources and the access provisions set out in the ABS-IR in force at the time of access.

2. Development of tools to monitor compliance

(d) Disclosure requirements

Parties shall take measures to require users of genetic resources to disclose the source of the genetic resources and associated traditional knowledge at appropriate official national checkpoints.

Parties shall ensure that the declaration of source of the genetic resources and associated traditional knowledge are notified to the CBD-Clearing House / ABS Clearing House [referred to in Article XYZ].

3. Development of tools to enforce compliance

(e) Remedies and sanctions

Parties which reasonably suspect a misappropriation of their genetic resources may, through a designated official national authority, request another Party to investigate the matter.

Parties shall sanction cases of misappropriation by appropriate administrative, civil and/or criminal measures, given that the requesting Party's access legislation is consistent with the access provisions set out in the ABS-IR.
