

**ACCESS TO GENETIC
RESOURCES AND
TRADITIONAL KNOWLEDGE:
LESSONS FROM SOUTH AND
SOUTHEAST ASIA**

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*Proceedings of the South and Southeast Asia Regional
Workshop on Access to Genetic Resources and
Traditional Knowledge*

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List of Abbreviations

ABS	Access and Benefit Sharing
ASEAN	Association of Southeast Asian Nations
CBD	Convention on Biological Diversity
CITES	Convention on International Trade in Endangered Fauna and Flora
COP	Conference of Parties
FAO	Food and Agriculture Organisation of the United Nations
GATT	General Agreement on Tariffs and Trade
IMWG	Inter-Ministerial Working Group
IPRs	Intellectual Property Rights
ITA	Information Transfer Agreement
IUCN	International Union for the Conservation of Nature and Natural Resources
MAT	Mutually Agreed Terms
MTA	Material Transfer Agreement
NCS	National Conservation Strategy
NBU	National Biodiversity Unit
NGO	Non-Governmental Organisation
PIC	Prior Informed Consent
SAARC	South Asian Association for Regional Co-operation
SBSTTA	Subsidiary Body for Scientific, Technical and Technological Advise
TRIPS	Trade Related Intellectual Property Rights
UNCED	United Nations Conference on Environment and Development
UNEP	United Nations Environment Programme
WIPO	World Intellectual Property Office
WRI	World Resources Institute
WTO	World Trade Organisation

Foreword

The commitment of international community to ensure an equitable supply of food and nutrition to everyone on Earth has been reiterated at several national, regional and international conferences, agreements and conventions. Such equitable distribution based the founding principles of the Convention on Biological Diversity (CBD) which hoped to pave the way from an exploitative sharing of biological diversity to an equitable sharing of such resources. Many agree that the CBD is perhaps the only international agreement that explicitly deals with equitable benefit sharing principles.

The irony has since been that though everyone spoke on equity, there are few practical examples on how such equity and benefit sharing principles are to be put into practice. There are few examples to follow and more questions to ask. As for any such dialogue, the basis of sharing and distribution need to be based on experiences and lessons learned.

With an aim to address this issue, share experiences and lessons from a South-South perspective - which often involves similarities in culture, economy and governance - IUCN through its Regional Biodiversity Programme for South and Southeast Asia organised a regional workshop on access to genetic resources and traditional knowledge.

One of the common confusions in relation to the CBD is the issue of differences between biological diversity and genetic resources. Often people confuse these and use the two terms interchangeably. Even in the papers presented in this workshop we can see this confusion. Countries and policy makers need to be clear on what they mean and address issues based on such clarity. Another issue is the way to address access to genetic resources. Many tend to think that controlling access means preventing use. This is in contrast to principles of the CBD that aims to promote sustainable use. Experiences from the Philippines clearly shows that national policies or regulations need to be flexible yet comprehensive.

Increasing attention on traditional knowledge and the formal addressing of incorporating elements of protecting and rewarding traditional knowledge at the international level also provided confidence for countries to believe that such knowledge will receive protection and would be used to enhance the use of genetic resources.

Even though readers may wonder the time gap between organisation of the workshop and publication of these proceedings, reasons of which are beyond explanation

tion, the time gap gave up an opportunity to critically address the translation of many recommendations from this workshop into actions at international and regional levels. Though we do not claim that such actions are only based on recommendations from the workshop, we hope you will agree how the thinking matured on issues addressed. This critical analysis forms the Epilogue of this publication. To ensure that all country status reports (case studies) are updated, all authors were requested to review them individually. We are very grateful to them for their support and patience. An additional chapter providing a synopsis on current access and benefit sharing mechanisms is added to help readers with current updates.

We sincerely hope that this publication will be helpful, meaningful and fill the gap in knowledge on issues nationally and regionally.

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Needless to say we are grateful to all authors for their support and patience in reviewing their papers. Thanks are due to governments of Sri Lanka and Indonesia for forwarding the recommendations to the CBD Secretariat to include in COP-4 official documentation. Finally, we are thankful to our team in helping organise the event.



Introduction

The Convention on Biological Diversity (CBD) has three major objectives: conserving biodiversity, sustainably using its components and sharing equitably the benefits arising from the use of genetic resources.

Paragraph 7 of Decision III/5 of the Third Meeting of the Conference of the Parties (COP) to the CBD at Buenos Aires, Argentina in November 1996 *“requests the Secretariat of the Convention and the Global Environment Facility to collaborate for preparing, for consideration by the COP at its Fourth Meeting, a proposal on the means to address fair and equitable sharing of benefits arising out of genetic resources including assistance to developing country partners.”*

IUCN-The World Conservation Union organised the South and Southeast Asia Regional Workshop on Access to Genetic Resources and Traditional Knowledge to assist participating countries to prepare for the discussions to follow COP III. The workshop was co-convened and hosted by the M.S. Swaminathan Research Foundation at Chennai (India), between 22-25 February 1998.

The meeting was designed to discuss issues relating to access to genetic resources and traditional knowledge and the equitable sharing of benefits. Senior-level government representatives from 14 countries in the region took part in the workshop, together with a diverse range of national and international resource persons. In total, some 62 participants from 20 countries contributed to the meeting. The three and a half-day workshop concluded by developing “From Chennai to Bratislava, An Agenda for Action”.

The three and a half-day workshop had three key objectives:

- To familiarise CBD Focal Points (and others) from the regions with the access and benefit sharing provisions of the Convention;
- To catalyse participatory national planning processes to implement the CBD access and benefit sharing provisions, by sharing experiences from within and outside the region; and
- To identify common regional trends, issues and concerns relating to the implementation of the CBD’s access and benefit sharing provisions in South and Southeast Asia.

The workshop was structured around a case study format. Particular emphasis was placed on learning from the legislative and regulatory experiences of the Philippines (Executive Order 247), South America (Decision 345 of the Andean Pact), and India's draft biodiversity legislation. Additional case studies examined the benefit sharing approaches of an innovative, US-based pharmaceutical company (Shaman Pharmaceuticals), the partnership established between the Kani tribals and the Kerala Tropical Botanical Garden and Research Institute and the Peoples' Biodiversity Register initiative in India. Considerable emphasis was also given to small group discussions.

The workshop's agenda for action was widely circulated at the Asian Preparatory Meeting for the CBD held subsequently in Haikou, China. The statement was also distributed at the CBD COP IV that met in Bratislava in May 1998.

We are grateful to the German Federal Ministry for Economic Co-operation and Development (BMZ) and the Swiss Agency for Development and Co-operation (SDC) for their financial support to the workshop and their long-standing interest in global biodiversity conservation. We are also thankful to Dr. M.S. Swaminathan for chairing the workshop throughout. Finally, thanks are due to every member of our team for helping to plan and organise this regional meeting.

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