



## SECRETARIAT OF THE PACIFIC REGIONAL ENVIRONMENT PROGRAMME

**Eighteenth SPREP Meeting***Apia, Samoa*11-14 September 2007

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**Agenda Item 6.3: Genetic Resources in the Pacific Region**  
***(Paper presented by Australia)******Introduction***

1. Genetic resources sourced from both terrestrial and marine environments are used in a wide range of biotechnology industries. The process of searching for useful genetic resources and chemical compounds from the environment is called 'bioprospecting' or 'biodiscovery'. As a result of the commercial, conservation and national interests, there has been broad involvement in international negotiations related to the access and benefit sharing (ABS) of genetic resources, following the conclusion of the Convention on Biological Diversity (CBD) in 1992.

2. The CBD recognises that States have sovereign rights over their natural resources including genetic resources, and provides that States have a responsibility to facilitate access and to ensure the fair and equitable sharing of benefits from the utilisation of genetic resources. Having clear and transparent domestic regulations in place provides benefits for governments and local communities, by providing frameworks to both attract investment in local biodiversity research, and to generate benefits (financial and non-financial) to communities. Increased capacity building and better knowledge of the local environment also lead to a greater ability to sustainably manage the natural resources.

3. Australia would like to cooperate more closely with other SPREP members on this issue, particularly in the context of negotiations within the CBD and related UN fora. We would like to discuss with SPREP members the state of international negotiations, to consider issues of particular interest to Pacific nations, to talk about future activities in the region and internationally, and to exchange ideas on Pacific needs in the area of access and benefit sharing of genetic resources.

***International negotiations up to now***

4. One of the aims of the Convention on Biological Diversity (CBD) is to provide a framework for access to genetic resources, and the fair sharing of benefits from their use. In order to be effective, the CBD's provisions on access and benefit sharing require domestic implementation, and the Bonn Guidelines were developed in 2002 to assist countries with implementation. However, 15 years after the CBD's adoption, there are still relatively few countries that have implemented these provisions domestically.

5. At the World Summit on Sustainable Development, there was agreement to begin negotiating an “international regime” on genetic resources in the CBD, and the Eighth Conference of the Parties (COP8) endorsed this goal with the aim of completing work by 2010 (for COP10). However, there is no agreement on what “international regime” means, and it will be challenging to narrow differences between parties at the next two meetings of the Access and Benefit Sharing (ABS) Working Group in October 2007 and January 2008.

6. Citing concerns over the lack of domestic capacity to enforce ABS regulations and perceived biopiracy, some countries have been pushing for a new international treaty on genetic resources. Australia’s view is that such a regime is premature as any system of regulation will not work unless there are effective domestic legal arrangements that are responsive to individual national circumstances.

7. As well as discussions under the CBD, other UN fora are also considering issues related to genetic resources. Recent discussions at the UN Informal Consultative Open-Ended Process on Oceans and Law of the Sea (UNICPOLOS) 25-29 June, focussed on marine genetic resources including areas within and beyond national jurisdiction. UNICPOLOS is a forum which encourages information exchange on the chosen topic, and this year was particularly useful for highlighting the range of scientific research activities on marine genetic research, the importance of this research for effective management of marine areas and the range of beneficial commercial applications of marine genetic resources.

### *Situation in the Pacific*

8. The Pacific region has a high level of biodiversity in both marine and terrestrial ecosystems. As a result, the genetic resources in these ecosystems may provide the basis for commercially valuable medicines and industrial products. The conservation of this biodiversity is also important so any regulations put in place by Pacific countries will need to balance the importance of allowing access to these genetic resources as well as ensuring that the conservation of these resources is addressed.

9. A number of countries in the Pacific have started to grapple with the complex issue of how to regulate ABS of genetic resources however due to resource constraints, few have had the capacity to implement domestic regulations. A series of four workshops on access and benefit sharing schemes were run around the Pacific in Vanuatu, Cook Islands, FSM and Solomon Islands in 2001 and 2003. Vanuatu has in place legislation on bioprospecting through its *Environment Management and Conservation Act (2002)*. While not specifically domestic legislation, Samoa signed an MoU with the University of California for licensing prostatin gene sequences from the Samoan mamala tree. Fiji has also had experience in negotiating contracts between local communities, University of South Pacific (USP) and Strathclyde Institute of Drug Research for biodiscovery samples from the environment. In addition, Fiji has drafted a bill on bioprospecting although it has yet to be considered by Parliament. PNG has had some practical experience with Oxford University and the Palm Oil Association of PNG, Cook Islands has looked at draft legislation on bioprospecting, and FSM has noted the need to develop relevant legislation in its “National Biodiversity Strategy and Action Plan” of 2002. New Zealand is considering the development of an overarching framework to implement ABS provisions

while Australia has put in place regulations covering Commonwealth areas as well as areas under Queensland and Northern Territory jurisdiction. Other PICs may also have had experiences and progressed regulations that are not as widely known.

10. The regionally based USP has also been involved in bioprospecting, and was centrally involved in the negotiations with the Verata community in Fiji and the Strathclyde Institute of Drug Research. William Aalbersberg at USP's Department of Chemistry has written a number of articles about the positive experiences and successful relationships formed as part of this agreement to access genetic resources and share the benefits of any commercial development with the community. The project furthered community development, community-based conservation and scientific knowledge of the local environment.

11. Most recently, the SPREP Secretariat produced a valuable report of activities in the Pacific related to marine genetic resources for the UNICPOLOS meeting, and this forms a useful companion to this present paper. SPREP has also liaised with the GEF for funding for the project "Implementing the Bonn Guidelines on ABS in the Pacific Island Countries" although the inclusion of this in the new GEF Pacific Alliance for Sustainability is not yet clear.

12. A number of NGOs within the region have also been involved in assisting PICs with ABS development – WWF, Rainforest Alliance, UNU-IAS and Foundation for International Environment Law and Development (FIELD) have all been involved in looking at access and benefit sharing of genetic resources in different Pacific nations.

### ***Challenges for Pacific Island countries***

13. There are a number of unique challenges for PICs that are recognised but need to be taken into account in developing domestic systems on ABS including:

- local customary laws regarding land tenure
- traditional knowledge on genetic resources
- ensuring participation of local communities, including capacity building as part of benefit sharing agreements
- the limited human resources for development and enforcement of regulations.

14. However, domestic systems of regulation can be simple – streamlined permit systems that provide for benefit sharing agreements, linked to existing permit requirements can reduce the need to invent an entirely new regulatory system. The Northern Territory Government, for example, has all put in place a regulatory system based on benefit sharing agreements that link directly to existing research permit requirements. States could also consider codes of conduct for companies and organisations, contracts with companies and organisations that can be enforced through existing legislation, licenses and/or material transfer agreements with companies for the collection and transfer of genetic material for biodiscovery.

15. States also need to recognise the potential benefits of the genetic resources within their jurisdictions: access to genetic resources may provide opportunities for development of the local community and increased understanding of the local ecosystems. The example of the Verata community's relationship with USP and Strathclyde Institute of Drug Research is a study of how benefits can be shared by all parties involved. It is important that regulations do not stymie research efforts, both local and international. Governments and communities need also to realise that the monetary benefits returning to communities may not be large, but that benefits may lie more in the area of capacity building and technology transfer, such as training and work opportunities associated with the collection and monitoring of genetic resources. The importance of Government focus on this issue also should not be downplayed as their provision of support for negotiations between relevant communities and companies interested in accessing genetic resources is a crucial element.

### *Future activities*

16. The next discussions internationally on ABS will occur at the Access and Benefit Sharing Working Group Meeting in October 2007. This will be followed by a Working Group on Marine Biodiversity Beyond National Jurisdiction in early 2008. These Working Groups should:

- work towards the effective implementation of the CBD,
- support sovereign nations to develop nationally appropriate responses, and
- not impede research or investment.

17. Australia will attend both these Working Groups and will actively engage in the discussions.

18. Australia is interested in working closely with SPREP members on issues related to access and benefit sharing of genetic resources, by sharing our experiences in developing ABS regulations in Australia and contributing to building capacity within the Pacific. We would like to increase cooperation with SPREP members in negotiations within the CBD, and continue our strong collaboration in the marine biodiversity context within UN fora.

### *Recommendation*

19. The Meeting is invited to:

- **agree** to form an email network of relevant environment officials to continue the discussion and information exchange on access and benefit sharing of genetic resources in Pacific Island countries.