

DISCUSSION PAPER

Access and Benefit-sharing: the Role of Scientists

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Scientists in both developed and developing countries need to play a pivotal role in developing an effective international ABS regime. Scientists and their research institutions represent the primary actor by which most benefit-sharing will be achieved and through which much of the current and future access will take place.

Benefit-sharing by scientists occurs through indirect and direct means. Research leading to greater understanding of ecosystems and species or scientific advancement can result in benefits to all of humankind. Direct benefits often consist of the provision of local services (accommodation, transportation, employment) and the transfer of science, know-how or technology to research institutions in source countries. There is a collective interest in ensuring that scientific research and the resulting benefits are not diminished under an international ABS regime. Scientists will also have a significant role in any financial benefit-sharing since the development of commercial applications from genetic resources used for scientific purposes will generally trigger contract provisions to negotiate royalties.

Work by Russell Barsh suggests that national research institutes and universities often provide access to their country's genetic resources. An illustrative example of national research institutes providing access to genetic resources and associated traditional knowledge is the Hoodia plant. The San people have traditionally used the Hoodia plant during hunting forays into the desert. Following the patenting of the active ingredient P57, the Council for Scientific and Industrial Research licensed the patent to the biotechnology company, Phytopharm Plc, which then signed a licensing agreement with Pfizer Inc.

National research institutes and universities are important to the process of the transfer of technology and know-how, so scientific partnerships and networks generally are to be encouraged. The challenge for countries is to create awareness amongst its research institutes and scientists so as to integrate their research activities into the national ABS system.

Some preliminary evidence is that there is little awareness of ABS amongst most Canadian scientists. Research by Canadian academics is underway on a herb (Buckthorn) and a pesticide (pepper corn) that had been accessed in other countries without apparent awareness and compliance with national PIC or MAT procedures. Another issue of concern in Canada is the potential conflicts between the research codes of conduct of government agencies/research

¹ The views expressed are solely those of the author.

III. Specific Issues for consideration in the elaboration of the IR:
Measures to ensure compliance with CBD and access legislation

institutions/universities and their policies on the institutional ownership of intellectual property rights of their researchers. Accordingly, there is a need to not only raise awareness of potential criminal and civil liability but also to promote best practices through the establishment of codes of conduct for scientists as both “providers” and “users”.

In meetings with Canadian provinces and territories, concerns were raised that Canadian graduate students studying in the United States appear to be an important source of exports of Canadian genetic resources. Concerns have been raised that significant samples and information on species are being stored in American universities and that it would be desirable to repatriate some of this knowledge. When creating awareness of ABS amongst scientists it appears that awareness raising efforts should also be extended to graduate students.

Codes of conduct may be developed at the institutional level (e.g. university, botanical garden), the association level (e.g. botanical gardens, ethnobotanists), the community level (e.g. indigenous and local communities), and the national level or international level. In certain countries, national codes of conduct can be especially effective if academics must comply with such codes in order to qualify for funding from national research funding councils.

There may be merits in negotiating an international voluntary ABS code of conduct for scientists under the CBD, as an element of the international regime. Such a code of conduct could raise awareness of ABS amongst international and national scientist associations, as well as improving the level of compliance with national ABS laws. Another desirable aspect of developing a CBD code of conduct for scientists is that the code would be fair and balanced if the key stakeholders – governments, scientists, indigenous and local communities and industry – are all present at the negotiating table.