

DISCUSSION PAPER

Certificate of Origin / Source / Provenance

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A certificate of origin/source/provenance will most certainly play a key role in the development of the International Regime on Access to Genetic Resources and Benefit-sharing, to be negotiated within the framework of the Convention of Biological Diversity (CBD). The idea of having a certification system for genetic resources under the framework of the International Regime seems like a way forward in giving more transparency in access and benefit-sharing arrangements nationally and internationally. This certificate would facilitate verification of compliance with ABS measures as well as support monitoring of the use of genetic resources and in various checkpoints, such as borders and patent applications in both user and provider countries.

However, it has not yet been discussed within the framework of the CBD whether this certificate should be one of origin, source or provenance. I would like to highlight the main differences in my view between these three, particularly between the certificate of origin and the certificate of legal provenance.

The *certificate of origin* would disclose information regarding the country of origin of genetic resources. I would like to highlight that certain countries like Norway have already included disclosure of origin in its intellectual property measures. On the other hand, the *certificate of source* would provide information regarding the place where the genetic material was taken from, regardless of whether this was the country of origin or not, i.e. it could prove it was taken from an ex-situ collection, without disclosing the country of origin from where it was originally collected from.

Meanwhile, the *certificate of legal provenance* would not only disclose the country of origin of genetic resources, but would also prove that genetic resources and traditional knowledge, where appropriate, were accessed under ABS provisions such as prior informed consent (PIC), mutually agreed terms and benefit-sharing arrangements. This certificate could be issued and controlled by the environmental national competent authority of provider countries.

¹ The views expressed are solely those of the author.

IV. Instruments/tools/measures which could assist in achieving the IR
Products and process certification

If the purpose of the certificate is to support CBD's provision in regards to access and benefit sharing, it seems that a certificate of legal provenance would best serve the purpose of tracking compliance with ABS provisions, particularly PIC. Furthermore, this certificate could play a mayor role in the field of intellectual property, whether considered an administrative requisite for patent applications or a requisite for patentability.