



**United Nations Environment Programme
Regional Office for Latin America and the Caribbean**

PROGRAMA DE LAS NACIONES UNIDAS PARA EL ENVIRONMENT
PROGRAMME DES NATIONS UNIES POUR L'ENVIRONNEMENT

**Meeting of the Working Group on Access to Genetic
Resources of the Forum of Ministers of the Environment of
Latin America and the Caribbean**

Quito, Ecuador

29 - 30 April 2008

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**Report of the Second Meeting of the Working Group on Access to
Genetic Resources and Fair and Equitable Sharing of the Benefits
Arising from their Utilization
(Quito, Ecuador; 29 - 30 April 2008)**

I. Background

1. The Sixteenth Meeting of the Forum of Ministers of the Environment of Latin America and the Caribbean, (Santo Domingo, Dominican Republic, 27 January to 1 February 2008), adopted decisions and determined the priority action lines of the Forum for the 2008-2009 term, as from the experiences developed regarding the implementation of the Latin American and Caribbean Initiative for Sustainable Development, ILAC.

2. One of the topics considered by the Sixteenth Meeting of the Forum, and included among the priority lines of the Regional Action Plan, was the Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising from their Utilization. Specifically, the Meeting of the Forum considered the Report of the First Meeting of the Working Group on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising from their Utilization, coordinated by Ecuador (Paipa, Colombia, 20 - 21 September 2008).

3. Through its Decision 12, the Sixteenth Meeting of the Forum of Ministers adopted the Recommendations of the meeting of Paipa and resolved to continue with the activities of the Working Group of the Forum, with the full and effective participation of Indigenous Peoples and the local communities, requesting UNEP to provide the greatest support possible for such effects, and specifically to promote the holding of a new Meeting of the Working Group prior to the Ninth Meeting of the Conference of the Parties of the Convention on Biological Diversity.

Item 1 of the Agenda: Opening of the Meeting

4. The meeting began on Tuesday, 29 April 2008 at 9:00 am, with the participation of representatives from the governments of Brazil, Costa Rica, Cuba, Granada, Ecuador, Mexico, Nicaragua, Panama, Peru, Venezuela, a participant from the Indigenous Peoples and local communities of CARICOM, and UNEP in its capacity as the Secretariat (the participant's list is attached as **Annex I**).

5. The inaugural session of the meeting had the presence of Messrs. Wilson Rojas, Deputy Secretary of Natural Capital (E) of the Ministry of the Environment of Ecuador, Federico Meneses, Director of the Directorate General of the Environment of the Ministry of Foreign Affairs of Ecuador, Mr. Juan Andrés Salvador, Director of International Affairs, of the Ministry of the Environment of Ecuador. Mr. Wilson Rojas, representing the Government of Ecuador as the host of the meeting, welcomed the participants and said that it was important for the members of the Group to have this opportunity to reflect and discuss these issues in view of the next COP of the Convention on Biological Diversity. Andrea Brusco, UNEP/ROLAC Officer, referred to the mandate received from the Sixteenth Meeting of the Forum of Ministers to give continuity to the work of the groups, in view of supporting the active and coordinated participation of the countries of the region in multilateral negotiations.

6. Mr. Antonio Matamoros, Coordinator of the Working Group welcomed the participants and called the members of the Group to actively work during the two days of the meeting, through a frank and open exchange on the key issues that will be the purpose of the upcoming negotiations of the International Regime. He said that the group could make an important contribution for the preparation of the countries and submit technical recommendations with specific proposals for the meeting of GRULAC from 16 - 17 May prior to COP9.

Item 2 of the Agenda: Organizational matters

7. It was proposed that Mrs. Teresa Cruz, the Cuban delegate, to be the meeting's rapporteur with the support from the delegation of Ecuador, this was unanimously accepted.

8. Under this item, the members of the Group considered the documents of the Provisional List of Topics (**UNEP/LAC-WGABS/2/1**) and Organization of the Works (**UNEP/LAC-WGABS/2/2**), which were adopted without modifications.

Item 3 of the Agenda: Presentation and consultations on the outcomes of the recent developments on ABS at the regional and multilateral levels

3.1. Presentation of the outcomes of the Sixteenth Meeting of the Forum of Ministers of Latin America and the Caribbean (Santo Domingo, January 27-February 1 2008);

9. As an introduction to this Agenda Item, the UNEP representative presented the results of the deliberations of the Forum of Ministers relevant for the issue, specifically item 10 of the Santo Domingo Declaration, Decision 12 on the topic which among other issues, adopted the results of the meeting of Paipa, as well as the inclusion of the issue in the priority work areas for the Regional Action Programme of the Forum in the two year period 2008-2009 and the mandate given for the continuity of the activities of the Working Group.

3.2. Review of the conclusions of the First Meeting of the Working Group (Paipa, Colombia, September 20-21 2007);

10. UNEP's Legal Officer also noted the results of the First Meeting of the Working Group, consolidated in the Report coming from the same, which includes a summary of the outstanding items to be included in the International Regime, the summary of the vision of the Indigenous Peoples.

3.3. Meetings of the Ad-hoc Open-ended Working Group of the Convention on Biological Diversity: Montreal (ABSWG5) and Geneva (ABSWG6)

11. In this Agenda item, the Coordinator called upon the members of the Group to share their impressions on the development of the recent sessions of the Ad-hoc Open-ended Working Group as well as relevant information to be shared.

12. An ample exchange of opinions followed, where the general advances achieved were highlighted, specifically the Sixth Meeting of the Working Group.

Item 4 of the Agenda: Debate on key issues to be considered in depth

4.1. Status of the negotiations toward an International Regime

13. The group coordinator invited members to comment and make contributions on the topics of the International Regime, for the sections that still have not been discussed or negotiated and which form part of the Regime (Objective, Scope and Nature) of the Annex to the Report of the Sixth Meeting of the Ad-hoc Open-ended Working Group, as well as what pertains to Certificates, Derivatives, Prior Informed Consent Procedure and Mutually Agreed Terms.

14. For the beginning of the exchange of ideas, the Costa Rican delegate referred to the request made by the Secretary of the Convention so that the countries may make their comments prior to the Sixth Meeting of the Ad-hoc Open-ended Working Group, highlighting that Costa Rica had made contribution in this instance. She said that in this regard: the regime must be a binding instrument, respect the

development of a national legislation, promote synergies with other agreements such as UPOV and contain provisions on compliance, including possible measures and sanctions in the event of default. She said that in her country two legal compliance certificates have been granted in the Framework of the national legislation in force which was enacted over ten years ago. The representative went on to explain the operation of the system in force in the country, as from the interest and inquiries made by various members of the Group.

15. The delegate of Peru similarly stated that the regime must be binding and not a voluntary code of conduct, to attend the problem of international traffic. Access conditions must be exclusively regulated in the international scope pursuant to Article 15 of the CBD, including PIC and MAT which should not be discussed internationally. Regarding the enforcement and compliance, it is necessary to cover the issue of the certificate, which is a tool that assists the fair and equitable sharing of benefits. The dissemination of the origin and derivatives are central discussions for the International Regime.

16. The participant from the indigenous and local communities of the Caribbean stated that the regime has three objectives: facilitate access, assure the fair and equitable benefit sharing and compliance. The participation of indigenous and local communities is fundamental, since they are holders of traditional knowledge; therefore their participation is fundamental in national development and enforcement of local regulations. Participants exchanged information on their national laws on access to genetic resources, which include the participation of Indigenous Peoples and local communities. Many countries are working on the definition of mechanisms for the participation of these communities in the framework of the legislation in force and the representative from Panama informed on the situation of her country in regards to specific regulation on access issues.

17. Nicaragua's representative talked about the granting of permits in his country, corresponding to areas where samples do not come from indigenous and communities, but it is important to define more appropriate participation instruments for indigenous and local communities.

18. The Cuban representative mentioned the national legislation draft bill presented in 2002 to the Council of Ministers. The first challenge is the definition of the owners, determining that the access contract is the central axis of the topic and has as elements prior reasoned consent and the certificate of origin or legal provenance, to perfect the access contract, which are documents different from the contract. In this regard there must be in the International Regime an indication of the common minimum that national legislations must have to prevent inequality situations that may arise from the existence of more flexible legislations.

19. The representative from Ecuador reported that the position of the country is for a binding legal Framework, truly and effectively enforced, since the Bonn Guidelines on Access and Benefit Sharing, have not had an efficient orientation for the defense of national interests. The right of the Indigenous Peoples and local communities to their full and effective participation must be present in the construction of that

Regime, therefore the assurance of regional participation opportunities is mandatory, bearing in mind that this does not happen in other regions. For Ecuador, a system to protect knowledge, innovations and traditional practices is fundamental, since most genetic resources are in the territory of the communities and the treatment of the future sui generis system for the protection of knowledge, innovation and traditional practices must have the same importance as the discussion of the International Regime. The United Nations Declaration on the Rights of Indigenous People provides a base for the consideration of this topic (Articles 24 and 31). The constitutional reform process in Ecuador is geared in this direction, emphasizing national sovereignty on genetic resources and sets forth the debate of the ownership of the property rights on the genetic resources in indigenous territories. The current constitution already includes the collective intellectual property of Indigenous Peoples on their traditional knowledge and under this premise a draft bill is currently developed for the protection of collective traditional knowledge linked to biological resources and the cultural expressions of the nationalities and the Indigenous Peoples, the Montubio people, African American and peasants of Ecuador. Regarding the Protected Areas, the territorial rights of the Indigenous Peoples are confronted with the trend of the International forums of promoting the strengthening and creation of new protected areas.

20. The representative of Venezuela stated that pursuant to national legislation it is mandatory to have an access contract and she believes that the contents of the same, is similar to the requirements of the Legal Provenance Certificate of Costa Rica, which was explained by the representative of that country.

21. The representative of Brazil said that legal reform processes on the issue of genetic resources are already set in motion as well as national participation mechanisms of the indigenous and local communities. On the subject of the negotiation of the International Regime it is important to agree on positions not only within the scope of GRULAC but in other as well, such as the Mega-diverse Countries, with sufficient flexibility. Certificates must be simple, for Brazil.

22. On the subject of Derivatives, their technical complexity was discussed as well as the sensibility of some countries due to their link with the intellectual property regime, which is territorial in nature. In this region is where the topic has been worked the most and the region is expected to take a clear stand on the same. Peru's delegate said that a conceptual distinction must be made between the discussion of derivatives in the International Regime and the patentability of the derivatives. Cuba believes, from a practical point of view that a more scientific, practical concept is necessary, which identifies the participation of the genetic resource in the property of the specific product obtained. Ecuador stated that national interest on the sovereignty of genetic resources and the derivatives are clear; because this is where the value added for the treatment of equitable benefit sharing. For the region it is important that the regime includes the derivatives. The issue of shared intellectual property must also be a topic of debate, as well as the definition of biological resources and genetic resources. Panama's delegate informed the members of the Working Group that in the Glossary of terms of the national legislation, there is a definition of derivatives and she proceeded to

describe the same. Regarding the definition of Derivatives of Decision 391 of the Andean Community, it was informed that it is biological in nature and not a market definition and there rests the difficulty. Mexico has shown certain reserve to discuss the issue until a definition is available, since this topic is being discussed in Congress and the definition that Congress has on derivatives has not been agreed to with the authorities in the intellectual property area; therefore, the importance of a discussion on the issue to define the reach of the third goal of the Convention and simply avoid the use of the term derivatives. In this regard, it was noted that derivatives per se are not the ones sought to be regulated, but that the Convention speaking about the "utilization" of genetic resources triggers the obligations of sharing the benefits fairly and equitably. Therefore, the discussion should seek to identify the items where there is evidence of the utilization of genetic resources subject to this obligation. The participants coincided that this is a fundamental debate issue and the adoption of a position on whether if it forms part of the International Regime or not is crucial, because developed countries already have a stand on excluding derivatives from the International Regime, therefore this must be discussed in our region. The delegate of Peru stated the issue from strategy point of view in the negotiations, because derivatives could be included legal provenance certificates, leaving outsider the issue of their patentability.

23. On the subject of Synergies, it was propose that GRULAC adopt the position of considering International agreements containing provisions pertaining to and linked to genetic resources.

Item 5 of the Agenda: Recommendations and Agreements of the Group to the upcoming GRULAC and the COP9 of the Convention on Biological Diversity.

24. The next work session began with invitation made by Mr. Antonio Matamoros to continue the debate on the elements, reviewing the issues discussed during the first meeting, guiding the works towards the identification of the group's recommendations and agreements.

25. The Mexican delegate proposed to work on the Work Paper presented by GRULAC during the 6th Meeting of the ABS of the CBD (contained in UNEP/CBD/COP/9/Inf16) and the Annex to the Document UNEP/CBD/COP/9/6. The representative from Brazil requested that the analysis to the Decision proposal be extended, which is the text that will be worked on during COP, and this was supported by the delegate representing Indigenous Peoples and local communities of CARICOM. The delegate of Ecuador reminded the participants that the origin of the CBD was to recognize the sovereign Rights of the countries on their genetic resources and balance the relation of the developed countries with the depositories of these resources.

26. The group decided to begin the analysis as from the GRULAC document, on which it was proposed to correct the English version regarding the participation of indigenous and local communities, in the sense of replacing the term "involvement" for "with the full and effective participation".

27. Immediately, the Annex of Document UNEP/CBD/COP/9/6 was considered, and the paragraphs and terms in brackets in the different sections were analyzed.

28. On the subject of **I. Objectives**, the relevance of eliminating the brackets from the terms "facilitate" and "regulate in a transparent manner" was discussed, and the delegations of Mexico, Cuba and, Costa Rica were in favor. The delegations of Venezuela, Ecuador and Brazil stated that access was facilitated in fact prior to the enforcement of the CBD and also through the CBD, therefore, the objective of the regulation regime pursuant to national legislation must be emphasized, and emphasis must not be placed on facilitation; the reference to access to traditional knowledge cannot be accepted by Ecuador as well, therefore it would not be possible because it is rooted in the worldview of Indigenous Peoples. The "utilization" of traditional knowledge, pursuant to the free, prior and informed consent, and the terms mutually agreed with the owners of such traditional knowledge, which are the Indigenous Peoples and local communities may be accepted.

The delegate of Peru indicated that "Facilitate" and "Regulate" form part of the CBD language, which is our reference framework, but legally it is not a straight-jacket.

29. The representative of the Indigenous Peoples and local communities of CARICOM pointed out that there was no need to make reference to national regulations and requirements, because that was included in the paragraph heading.

30. The delegate from Peru indicated that terms of access to the genetic resources and traditional knowledge will not be discussed in the regime, which is why the whole first phrase should be deleted.

31. After the exchange of contributions and comments the conclusion was that there is a general consensus regarding the heading of the third paragraph mentioned as objective. With respect to the second paragraph, and following Mexico's suggestion, it may be accepted if the term "Guarantee" is changed for "Could propitiate" and the mention that national legislations, must be in agreement with what is provided in international agreements and conventions signed by the parties. Regarding the first paragraph, there is no agreement, and is left for debate and decision at the GRULAC meeting, prior to the COP9, also bearing in mind that there are several countries that have not attended this meeting.

32. With relation to **II: Scope**, the seven compiled options were analyzed to identify which could come close to the positions of the countries of the region. The delegates from Cuba and Brazil agreed that Option 4 could concentrate the positive elements, to which the delegate from Costa Rica expressed that the reference to biological resources should be excluded. The delegate from Ecuador also favored Option 4 with the inclusion of equitable benefit sharing, as well as taking into

account the work developed by the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. The delegate from Grenada expressed himself in the same sense for Option 4.

33. The delegate from Mexico mentioned Option 5 as preferable, to which derivatives and products should be added as long as these are defined in the framework of the CBD as is established by Option 6. The delegate from Peru was against the inclusion of biological resources and what relates to product stating that Option 4 has the problem of not including benefit sharing for which Option 5 would be preferable, she also mentioned that the issue of seabed resources not included under the Convention on the Law of the Sea and the Antarctic Treaty.

34. The delegates from Nicaragua and Panama also favored Option 4, which is the result of an arduous negotiation, considering that it must be completed with part of Option 5. The delegate from Brazil agreed that Option 4 includes the main elements of the regime.

35. In turn, the delegate from Venezuela mentioned that Options 1, 4 and 6 should be complemented. The delegate from Costa Rica was in favor of Option 5 as well as with some elements of 6, and the participant from the indigenous and local communities also was in favor of working on the basis of Option 5 with some elements of Option 4.

36. The delegate from Peru indicated regarding Option 4 that the text should eliminate all ideas of prevalence or hierarchy between the International Regime and the FAO Treaty, and that it should be clear as to the correlation between both. With relation to the derivatives, she pointed out that in comparative jurisprudence some legislations use the criteria of "on the basis of", which emphasizes more on the use than on the definition of derivatives. Regarding the mention of the work of the WIPO Intergovernmental Group, she indicated that the progress in the scope of the Working Group on Article 8j should actually be promoted.

37. With relation to the mention of the FAO Treaty, the delegate from Cuba clarified it was because some countries construed that the resources regulated by the Treaty were excluded from the International Regime, when they are excluded only when they are used for food and agriculture. The delegate from Brazil pointed out that the current text provides no idea of prevalence of one instrument over another.

38. Given that several of the Group members were inclined in favor of Option 4, the decision was made to work on the text proposed in said Option.

39. With respect to **III. Main Components**, the group considered the collection of the topics taken up by the Co-Chairs of the Ad-Hoc Open-Ended Working Group, in the understanding that this implies a more advanced exercise, because these are topics discussed in 5 and 6 of the Working Group. It becomes necessary to make more progress into the operational language for each one of these topics and to that end an important training will be required. In that sense, a first reading could be carried out at this meeting to identify the indispensable elements and those that

could not be admitted. In that sense Peru considered that it is indispensable that the disclosure of origin be considered, but not so for the international standards.

In the second work day, the meeting reconvened on Wednesday, April 30 with the participation of the Regional Director of UNEP for Latin America and the Caribbean, Ricardo Sanchez Sosa, who briefly addressed the Group, highlighting the transcendence of the work developed by the same in reply to the statements of the Ministers with respect to the enormous biodiversity wealth of our region, and the need to share the benefits obtained from its use.

40. In *A. Fair and Equitable Sharing of the Benefits*, the Components deserving a more thorough consideration were analyzed. With respect to numbers 4 and 5, the reference to cross-border situations was discussed. The delegate from Peru expressed that it is not admitted in her legislation, while the delegate from Cuba and the participant for indigenous and local communities of the CARICOM expressed that it is important to keep the topic for the eventual inclusion of ex situ resources and for the case of development of common frameworks as is the case of the Caribbean.

41. In *B. Access to the genetic resources*, doubts were expressed with relation to the sense of number 1 of the Components to be considered more thoroughly, the delegate from Venezuela considered that it is an intromission in the sovereignty of the State and several delegates were of the opinion of eliminating number 2 that introduces the concept of International access standards. Items 4 and 5 were supported.

42. In *C. Compliance*, related to the Components to be considered more thoroughly, there was a generalized agreement regarding the exclusion of number 1) g, related to international standards, as well as 1) b related to the sector menus of model clauses for the transference of materials. Likewise, mention was made of the little clarity of items 1) c and e. regarding letter d, related to the Identification of codes of conduct of best practices the inclusion of traditional practices and knowledge was proposed. Letter 1f is also unclear.

43. In *D. Traditional knowledge related with genetic resources* the different items summarized as Components to be more thoroughly elaborated were considered, with a view to incorporate them in the International Regime. With respect to items 1 and 2 per se the text should be expanded to include the consolidated formula that includes traditional knowledge, practices and innovations. Access to the genetic resources associated to traditional knowledge should also be included in item 1. Likewise, it must be taken into account that traditional knowledge is collective and inter-generational, it belongs to a people and not to an exclusive community and, therefore, the reference at "the community level" must be modified in item 2 for "at the indigenous peoples' level" and in item 6 the reference must not be to the person but to the authority representative of the Indigenous Peoples.

44. Detailed comments were made on the United Nations Declaration on Indigenous Peoples and the Report on the International Consultations of Indigenous and Local

Communities on Benefit-Sharing and the Development of an International Regime (UNEP/CBD/WGABS/5/INF) that provide important elements for the consideration of these topics. Likewise, it was stressed that there are important processes ongoing in Ecuador, in the Andean Community, and the CARICOM Task Force, which is important that they be taken into account. Likewise, it was proposed that the full and effective participation of indigenous and local communities be guaranteed in the regional scope, and it was reminded in this sense, that in the scope of this Working Group, this is established in the Decision 12 of the Sixteenth Meeting of the Forum of Ministers of the Environment of Latin America and the Caribbean.

45. It was also pointed out that the Spanish version of items 3 and 8 contains translation errors that generate difficulties. Item 5 is also unclear.

46. In *E. Capacity*, it was stressed that the development and strengthening of capacity-building measures is relevant for the region, particularly for Indigenous Peoples and local communities, aimed at the protection of their traditional knowledge, innovations and practices, in the terms established in the United Nations Declaration on the Rights of Indigenous Peoples.

47. It was pointed out that the establishment of a financial mechanism for capacity-building is important, but questions are left open: if it is a cooperation fund or if it is the distribution fund provided in the benefit-sharing section. The delegate from Mexico indicated that, for her country, capacity-building is part of the benefit-sharing arrangements. Capacity-building for traceability and monitoring should also be included, and it should be made explicit along with the taxonomic studies references.

48. Regarding **IV. Nature** it was reminded that GRULAC had already made explicit its position towards a single and binding legal regime. Some countries highlighted their intention that it be in the form of a Protocol.

49. With respect to the disclosure of origin, there was a consensus in that it is important as an essential element for the regime. Peru mentioned that this topic must be discussed separately and with independence from what this represents for industrial property rights because only WIPO will be able to establish the rules in this field.

50. Outstanding items on which the group has made progress are detailed as Annex II of this Report, same that could constitute lines for the participation of the Latin-American and Caribbean area in the negotiations of the International Regime, specifically at the next GRULAC meeting for COP9 and the same COP9.

Item 6 of the Agenda: Next steps and future activities of the Working Group for the implementation of Decision 12 of the Sixteenth Meeting of the Forum of Ministers and the 2008-2012 Regional Action Plan.

51. Under this item, the group Coordinator and the Secretariat informed on Decision 12 of the Sixteenth Meeting of the Forum of Ministers of the Environment of Latin America and the Caribbean and the products expected from the activities of the group during the 2008-2009 biennium.

52. Participants discussed the operation of the Working Group, its mandate and work modalities. It was specifically discussed that the group should develop an intense work agenda to be able to actively and fully participate in international negotiations, and that, to that end efforts are made to coordinate the work of this Group so that it best contributes to information exchange and regional debate. Likewise, it was proposed that, electronic dialogue be promoted as a way to maintain the exchange on diverse topics that require deep technical analysis, which could likewise allow for optimizing the time of Working Group meetings.

53. As an immediate step for the continuity in the progress of this Working Group, the President of the Forum of Ministers of Environment of Latin America and the Caribbean is requested to transmit this report to the Coordinator from GRULAC as well as the will to establish roads of cooperation and mutual support between the Forum of Ministers and GRULAC as a regional political group.

Item 7 of the Agenda: Other Matters

54. The delegate from Ecuador, announced the holding of the two next regional meetings, one hosted by the Agencia Española de Cooperación Internacional (AECI) and the Oficina Española de Patentes y Marcas, to be held in the city of Santa Cruz de la Sierra (June 08) and the other, organized by the Instituto Ecuatoriano de la Propiedad Intelectual (IEPI), with the sponsorship of WIPO, to be held in this city of Quito, on July 2, 3 and 4, 08.

Point 8 of the Agenda: Review and approval of the Meeting Report

55. The draft of the meeting Report will be sent in consultation to the Group members by the meeting coordinator and the rapporteur, for its approval after all relevant changes have been made. Comments will be received until Monday May 5 so that the publication thereof is ready by Friday May 10.

Point 9 of the Agenda: Closure of the Meeting

56. The meeting was closed by the Working Group Coordinator, Mr. Antonio Matamoros, and UNEP's Regional Director for Latin America and the Caribbean, Mr. Ricardo Sanchez Sosa, on Wednesday April 30 of 2008 at 1:20 PM.

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ANNEX I
LIST OF PARTICIPANTS

Brazil

Mrs. Maite Schmitz
Ministry of Foreign Affairs
Division of the Environment
Esplanada dos Ministerios, Palacio Itamaraty,
Anexo I, Sala 439, Brasilia

Tel: 55 (61) 3411-8450
E-mail: mschmitz@mre.gov.br

Mrs. Monica de F.F. Negrao
Technical Advisor
Ministry of the Environment
Department of Genetic Pools, Secretariat of
Biodiversity and Forests
SCEN trecho 2 Edificio Sede do IBAMA
Bloco G. CEP 70818-900
Brasília

Tel: 55 (61) 3307-7117
E-mail: monica.negrao@mma.gov.br

Costa Rica

Mrs. Marta L. Jimenez
CEO
Technical Office of the National Commission
for Biodiversity Management
Ministry of the Environment and Energy
San Pedro de Montes de Oca
San José, Costa Rica

Tel: (506) 2253-8416
E-mail: lijimene@racsa.co.cr

Cuba

Mrs. Teresa Cruz
Office of the Environment
Ministry of Science, Technology and the
Environment
Capitolio Nacional, La Habana 10200
Cuba

Tel: (537) 867-0598
E-mail: cruz@citma.cu

Ecuador

Mr. Antonio Matamoros

National Office of Biodiversity, Protected Areas, Wildlife and Access to Genetic Resources
Ministry of the Environment
Av. Amazonas and Eloy Alfaro, 8th floor, Edificio MAGAP

Tel: (593-2) 2 506337
E-mail: amatamoros@ambiente.gov.ec

Mr. Wilson Rojas

National Director of Biodiversity
Ministry of the Environment
Av. Amazonas and Eloy Alfaro, 8th floor, Edificio MAGAP

Tel: (593-2) 2506337
E-mail: wrojas@ambiente.gov.ec

Mr. Federico Meneses

General Director of the Environment
Ministry of Foreign Affairs, Trade and Integration
Av. 10 de Agosto and Carrión, 4th floor

Tel: (593-2) 2 993234
E-mail: dgmedamb@mrrree.gov.ec

Mrs. Mariela Salguero

First Secretary
National Office of the Environment
Ministry of Foreign Affairs, Trade and Integration
Av. 10 de Agosto and Carrión, 4th floor

Tel: (593-2) 2993234
E-mail: msalguero@mrrree.gov.ec

Mrs. Janeth Olmedo

Biosecurity and Genetic Resources Unit
National Office of Biodiversity
Ministry of the Environment
Av. Amazonas and Eloy Alfaro, 8th floor, Edificio MAGAP

Tel: (593-2) 2 506337
E-mail: jolmedo@ambiente.gov.ec

Mr. Rodrigo de la Cruz

Director at the Genetic Resources and Folklore Knowledge Unit
Instituto Ecuatoriano de Propiedad Intelectual – IEPI
Av. República de El Salvador 300 and Diego de Almagro, Edificio Forum

Tel: (593-2) 2508000
E-mail: rdelacruz@iepi.ec

Mr. Juan Andrés Salvador

Director
Office of International Affairs
Ministry of the Environment
Av. Amazonas and Eloy Alfaro, 8th floor, Edificio MAGAP

Tel: (593-2) 2 563422
E-mail: jsalvador@ambiente.gov.ec

Mrs. Frida Pin Hoppe

International Agreements
Office of International Affairs
Ministry of the Environment
Av. Amazonas and Eloy Alfaro, 8th floor, Edificio MAGAP

Tel: (593-2- 2 563422
E-mail: fpin@ambiente.gov.ec

Mr. Pablo Drouet

Multilateral Cooperation / International
Agreements
Office of International Affairs
Ministry of the Environment
Av. Amazonas and Eloy Alfaro, 8th floor,
Edificio MAGAP

Tel: (593-2) 2 563544

E-mail:

pdrouet@ambiente.gov.ec

Grenada

Mr. Malachy Dottin

Research Director
Ministry of Agriculture
St. George's Grenada

Tel: (1-473) 409-1219

(1-473) 440-3083

(1-473) 405-4490

E-mail:

malachyd@hotmail.com

Mexico

Mrs. Ida Alejandra Guzmán

Sub-director of the Green Agenda of the
International Affair Coordinating Unit
Office of the Environment and Natural
Resources (SEMARNAT)
Boulevard Adolfo Ruiz Cortínez 4209
CP14210, Delegación Tlalpan, Mexico D.F.

Tel: (52-55) 5628-0600

Ext. 12205

E-mail:

alejandra.guzman@semarnat.gob.mx

Nicaragua

Mr. Edilberto Duarte

Responsible for the Flora, Biosecurity and Soil
Sustainable Management
Ministry of the Environment and Natural
Resources - MARENA
Km. 12,5, Carretera Norte
Managua, Nicaragua

Tel: (505) 2631994

E-mail:

eduarte@marena.gob.ni

Panama

Mrs. Inés Vega Guerra

Legal Advisor
Access to Genetic Resources Unit – National
Authority of the Environment (ANAM)
Edificio 804, Albrook, Panama City, Panama

Tel: (507) 500 0913

E-mail:

ines.vega@anam.gob.pa

Peru

Mrs. Mónica Rosell

Presidency Advisor
National Council of the Environment - CONAM
Av. Guardia Civil 205, San Borja
Lima

Tel: (51-1) 225-5370

E-mail:

mrosell@terra.com.pe

Venezuela

Mrs. Luczaida Silvio
Biologist I
Office of Biosecurity and Biocommerce
Ministry of the People's Power for the
Environment
Centro Simón Bolívar, Torre Sur, 6th floor,
Suite 611
Caracas, Venezuela

Tel: (58-212) 408-4787
E-mail:
lsilvio@minamb.gob.ve

Caribbean Antilles Indigenous Peoples Caucus (CAIPCD)

Mr. Albert DeTERVILLE
Aldet Centre – Saint Lucia
House No.44, Independence City, Entrepot
Box MA 020, Marchand P.O.
Castries, Saint Lucia

Tel: /Fax: (1-758) 452-
5374
E-mail:
aldetcentre@gmail.com
caipcd@gmail.com

UNEP

Mr. Ricardo Sanchez Sosa
Regional Director
United Nations Environment Programme
Regional Office for Latin America and the
Caribbean
Edif. 103, Av. Morse, Clayton, Ciudad del
Saber
Ancón, Panama City, Panama

Tel: (507) 305-3135
Fax: (507) 305-3105
E-mail:
ricardo.sanchez@pnuma.org

Mrs. Andrea Brusco
Legal-Coordinator Officer of the
Environmental Law Program
United Nations Environment Programme
Regional Office for Latin America and the
Caribbean
Edif. 103, Av. Morse, Clayton, Ciudad del
Saber
Ancón, Panama City, Panama

Tel: (507) 305-3138/3142
Fax: (507) 305-3105
E-mail:
andrea.brusco@pnuma.org

Mrs. Susana Sanchez
Assistant – Environmental Law Programme
United Nations Environment Programme
Regional Office for Latin America and the
Caribbean
Edif. 103, Av. Morse, Clayton, Ciudad del
Saber
Ancón, Panama City, Panama

Tel: (507) 305-3142
Fax: (507) 305-3105
E-mail:
susana.sanchez@pnuma.org

ANNEX II

- a) Correction in the English version of GRULAC's document (UNEP/CBD/COP/9/inf16), in respect of the participation of local and native communities, of the term "involvement", replacing it with "with the full and effective participation".
- b) With regard to the objectives in Paragraph I of the Annex of the Document UNEP/CBD/COP/9/6, there is general consensus on the heading and the third paragraph. In respect to the second objective, it could be accepted if a term is included that soothes the guaranty requirement and a requirement is stated that national legislations should be in conformity with the provisions in the international accords and agreements entered into by the parties. Regarding the first paragraph there is no agreement, and is left for debate and decision at the GRULAC meeting prior to COP9, furthermore, bearing in mind that there are many countries that have not attended this meeting.
- c) In relation to Paragraph II: Regarding the scope of the Annex of Document UNEP/CBC/COP/9/6, the general consensus favors using the text of Option 4 as basis, and several delegates suggested incorporating elements from Options 1, 5 and 6.

In this sense, the text inserted below reflects largely the primary elements pointed out by the delegates: "The scope of the international system of access and benefit-sharing will include, among other things: all genetic resources, its derivatives and knowledge, innovations and associated traditional practices, and the fair and equitable sharing of the monetary and non-monetary benefits resulting therefrom, with the exclusion of human genetic resources".

Furthermore, a formula should be found that is apt to reflect that the international system will not prevent the application of the multilateral system of FAO's International Accord on Phytogenetic Resources for Food and Agriculture, and that the international system will be applied also to the resources included in FAO's Accord when used for purposes other than food and agriculture. Reference to the work carried out under the scope of WIPO was also suggested.
- d) It is important for the region that the international system should include derivatives. A definition for the term "derivatives" should be agreed on before the approval of the international system. GRULAC shall form a group to work on this subject and submit a proposal for the definition.
- e) The Disclosure of Origin is a key element to be included in the international system.
- f) In relation to Paragraph III: Scope of the Annex of the Document UNEP/CBC/COP/9/6:

- Whenever traditional knowledge is negotiated, the process should adjust to the denomination adopted by the CBD, which includes traditional knowledge, innovation and practices.
 - It is important for the region that effective and real measures be developed and strengthened intended towards capacity building of the indigenous people and local communities targeted at the protection of their traditional knowledge, innovations and practices.
 - The issues on traceability and monitoring should be included in the creation of such capacities, which may be specified together with the references to taxonomic surveys.
- g) As for **IV, Nature**: it was reminded that GRULAC has already made explicit its position favoring a single and binding legal system in the form of a Protocol.

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