In 2004, the members of the Convention on Biological Diversity started negotiating an "*international regime on access to genetic resources and benefit-sharing*". Many developing country governments are enthusiastic about this process. They speak about it as something which will put an end to biopiracy and finally realise the "*fair and equitable sharing of benefits*" derived from biodiversity, long promised by the CBD. In reality, the regime will have very little to do with benefit-sharing at all, much less with fair and equitable sharing. The focus will remain where it has always been in the CBD's discussions: on access to genes for research and commercialisation, and on setting a price for such access. The only new element likely to materialise in the regime is some form of international enforcement for national access legislations, possibly a system of certificates to prove that a genetic resource has been lawfully acquired.

Re-situating the benefits from biodiversity

a perspective on the CBD regime on access and benefit-sharing

GRAIN

The three objectives of the 1992 Convention on Biological Diversity (CBD) are incredibly ambitious. Number one and two alone are daunting - the conservation of biological diversity and the sustainable use of its components - without reserve or restriction. But the boldest and most remarkable is nevertheless number three - the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources.

If realised, a fair and equitable benefit-sharing from the world's biodiversity would fundamentally change the way genetic resources are controlled and exploited. Today, benefits are increasingly dissociated from the hard work of conservation and sustainable use. Rural communities and indigenous peoples who actually manage most of the world's biodiverse forests, fields and waters are rapidly being marginalised by economic and political forces. Not only are their resources exploited by others without proper recognition or support. Worse, their traditional systems of use and sharing are constrained and undermined, and biodiversity itself is eroding as a result.

Fair and equitable sharing would imply, for a start, the restoration of full usage rights to the biological resources necessary for traditional community

livelihoods, as well as the corresponding land and water rights needed for their proper management. It would mean an end to all monopolisation or privatisation of genetic materials through intellectual property rights (IPRs) or other means, including through government claims of national ownership rights over biological resources. It would require all results of biological research to be freely shared among those who could have use for them. It would, in short, require genetic resources to be managed as a heritage to nurture rather than as a market commodity to sell.

CBD's underlying trade-off

This, of course, is not about to happen at the CBD, because it was never intended to. Like in so many international treaties, the rhetoric of the CBD is one thing, and its real political content another. While many of the idealistic biologists who helped draft the text nearly 20 years ago were no doubt sincere about the aims of conservation and sustainable use - some possibly even about benefit-sharing - the hard-nosed politicians who moved in to finalise the deal had a different agenda. The emerging biotech industry in the North, eagerly promoted by its governments, wanted to secure its access to genes. Biodiversity-rich governments in the South had realised that this gave them both political leverage and a unique business opportunity.

So the text was drafted to allow governments (of the South) to control the flow of genetic material across their borders, and to claim a share of the profits whenever something was commercialised by private corporations (of the North). In return, the corporations would be allowed to freely use patents and other IPRs to exclude others from using the genes they had lawfully paid for. This business deal - not the conservationist concerns - was the real origin of the political consensus that brought the CBD into being.

The key to the consensus was the strong assertion of national sovereignty over genetic resources.

Box: Ending biopiracy?

Will the international ABS regime end biopiracy? That depends very much on what one puts in the word. Biopiracy is not a very well defined term, and it is now used in so many different senses that we at GRAIN increasingly try to avoid it!

There is an inherent problem with the concept of biopiracy, long recognised by many but never taken seriously enough. The core meaning of piracy is to take something that belongs to someone else without permission or payment. Implicitly, this means that if some kind of payment is made, there is no longer a problem. In our view, however, most of the problem is in the "belonging" part of the picture. Permits or payments end up getting arranged. But who said biodiversity belongs to anyone to begin with? There's an assumption of ownership that causes any discussion of biopiracy as a problem to end up with the wrong solution. Under the guise of correcting some kind of misappropriation, we actually just facilitate appropriation. (This is how we get community IPRs as a solution to Monsanto's IPRs.)

When Megadiverse country governments say that the international regime can end biopiracy, they're taking a purely legalistic view. If access takes place in accordance with national legislation, it is by definition not biopiracy. For them, a certification system which makes it difficult or impossible to access and/or patent genetic materials without government permission would indeed greatly reduce biopiracy, if not eliminate it.

For the real holders and managers of biodiversity, most of whom are rural communities and indigenous peoples, this is not necessarily very helpful. Biopiracy by government institutions and other so-called public institutions is often more commonplace than biopiracy by foreign corporations. Many countries' laws, and government officials, interpret national sovereignty over genetic resources as more or less equivalent to state ownership, translating into little or no say for communities over the pumping of resources from their land or water. And even where there is some formal requirement to consult or even get consent, in practice there is seldom a real opportunity to say no.

In several countries, we are increasingly seeing political conflicts over how national biodiversity legislation is used to transfer control over biodiversity from communities to government institutions, or extract information about traditional management into databases without any protection of community rights. For example, in India, the country currently hosting the Megadiverse secretariat, hundreds of communities have refused to set up the local Biodiversity Management Committees required by the new Biodiversity Act and demand changes to the legislation, because they regard it as a means to facilitate privatisation rather than protect biodiversity. In Brazil, changes to the Genetic Heritage legislation are under way which threaten to remove existing protection of traditional knowledge in databases, do away with the requirement to present proof of community consent before getting a bioprospecting permit, and make the Ministry of Science and Technology the only beneficiary of benefit sharing under bioprospecting agreements. And this is all in the name of controlling biopiracy. For many people, the governments are turning into the biggest biopirates of all.

For obvious reasons, this was very appealing to developing countries. The CBD put an end to the pretence that all governments managed genetic resources without self-interest as a "*common heritage of humanity*". In reality, colonial governments had been systematically extracting genetic resources from the South for their own benefit during several hundred years, first through state-owned companies and supposedly non-commercial entities such as botanical gardens and medical research institutes, later also through crop genebanks and microbial collections. After the colonial period, "common heritage" had become the smokescreen under which this extraction could continue, now increasingly under the control of private corporations and protected by IPRs. National sovereignty over biodiversity seemed to offer developing countries the legal possibility to finally put an end to this colonial relationship.

What many of them did not realise then, and some maybe not today, was that the choice to go for access control and genetic resource commodification played directly into the hands of developed countries and transnational industry. National access legislation could certainly put a brake on the uncontrolled extraction of genetic resources. Any country is free under CBD to close its borders and stop gene exports. But then the business opportunity created by the Convention will also vanish. The only way to make biodiversity generate the expected economic benefits is to enter into commercial agreements with the very corporations, botanic gardens and research institutes which the legislation was supposed to control. And none of them will ever sign a contract unless it guarantees the right to seek patents over anything that results from the research. In other words, access legislation did not provide the means to beat the biopirates. On the contrary, it created the need to enter into partnership with them. It became not a defence against the brave new world of IPRs, but the entry ticket to it.

Given this history, it is not surprising that there has been lots of discussion about access at the CBD, but very little about benefit-sharing. Language use is revealing. Since many years, benefit-sharing is never mentioned in CBD documents except as part of the fixed expression 'access and benefit-sharing' (or ABS for short) – an expression which incidentally does not appear in the actual CBD text at all. In contrast, the 'fair and equitable' part has disappeared from the horizon altogether, despite its prominent position in the treaty objectives. The message? That there exists no benefit-sharing obligation apart from the obligation to pay for accessed genes – and in particular no obligation for benefit-sharing to be fair or equitable.

In practice, ABS discussions at the CBD have focused not only on access as opposed to benefit-sharing, but almost exclusively on one very particular form of access: bioprospecting. The most ambitious ABS document produced by the CBD so far, the Bonn Guidelines, is essentially a manual for the negotiation and implementation of bioprospecting contracts. Why this narrow focus? Because most of the more usual forms of access to genetic resources fall outside the scope of the CBD, notably all pre-CBD collections, and so are already accessible to industry without any ABS hurdles. This means that bioprospecting is where the interests of biotech industry and developing country governments coincide. For both, it is those genetic materials which cannot be found in collections which hold the largest potential value, exactly because there is no alternative source.

There is little reason to expect the upcoming international regime to expand much from the access/bioprospecting myopia. The discussions so far have been mainly repetition of well-known positions. The tolerance for broader approaches is very limited. For example, at the ABS Working Group meeting in Bangkok in February 2005, a UNEP representative ventured to raise some wider issues about the overall effects on benefit-sharing of ever more proliferating IPR protection. For this he was viciously attacked by several representatives of the EU, the US and other developed countries, and UNEP later dissociated itself from his statement.

The certificates concept

There is really only one new element to the regime discussion, and that is the proposal by the Megadiverse Group to create an international system of certificates, to accompany genetic resources which have been accessed in accordance with CBD principles and applicable national legislation. This was the key component of the international regime idea already when it was first launched by the Megadiverse in their Cancún Declaration in 2002 (see *Box: The Megadiverse Group*). The term they use is "certificates of legal provenance". In essence, it would amount to an international enforcement system for national access legislations, somewhat comparable to what the World Trade Organisation and its TRIPS Agreement already provide for national patent laws. It would create a legal obligation for all CBD member states to monitor compliance with whatever conditions provider countries have set

Box: The Megadiverse Group

- The Like-minded Group of Megadiverse Countries was formed in 2002 at a meeting in Cancún, Mexico. The original members were a dozen of the most biodiversity-rich developing countries.
- Membership has since increased to 17, and the group presently includes Bolivia, Brazil, China, Colombia, Costa Rica, Democratic Republic of Congo, Ecuador, India, Indonesia, Kenya, Madagascar, Malaysia, Mexico, Peru, Philippines, South Africa, and Venezuela.
- The group is essentially a biodiversity cartel, aiming to strengthen the bargaining position of biodiversity-rich countries much in the same way as OPEC does for petroleum exporters.
- The first objective in the founding document, the Cancún Declaration, reads: "Coordinate our efforts in order to present a common front at international fora dealing with biodiversity."
- Another key objective is to develop "scientific, technical and biotechnological cooperation (...) to add value to the goods and services generated through biodiversity and ecosystems, while ensuring the development of biotechnology".
- The group meets annually both on ministerial and expert level. The most recent meeting was in India in January 2005.
- The Megadiverse Group receives financial and practical support from UNEP, IUCN and GEF.

down, and provide sanctions for non-compliance under their own legal systems. The net effect being to put Megadiverse countries and other genetic resource sellers on a more equal footing with the buyers and their IPR systems, leading in the end to a 'better price' for the genetic goods.

The concept is that each 'genetic resource' leaving a CBD member state would have to carry a certificate issued by a legally competent body in the providing country, which proves that the movement of the item has fulfilled basic CBD requirements as well as any additional conditions imposed by national legislation. The main use of this certificate would be in IPR applications. Only with a valid certificate would it be possible to submit a patent application, for example, for a product developed on the basis of a genetic resource.

In other words, the certificate would be a mechanism for achieving the long-standing demand of developing countries for a 'disclosure of origin' requirement in patent applications for genetic resources. But it differs from other proposals in that the certificate would be an independent document issued under a 'self-standing' system, likely comprised of national government agencies and coordinated by the CBD. This means that patent offices would not be involved in the actual assessment of whether the certificate conditions were fulfilled. Their only role would be to check whether there was a valid certificate or not, just like they already check whether other formal requirements are fulfilled before admitting a patent application for examination. Independently issued, the certificate could also be used in other contexts. For example, there may be a requirement to present valid certificates when applying for research funding, or when submitting a finished product for marketing registration with relevant authorities.

The CBD-WTO-WIPO nexus

Because this proposal links in so intimately with earlier discussions at the World Trade Organisation (WTO) and the World Intellectual Property Organisation (WIPO) about disclosure of origin, it will automatically mean that the CBD process will have strong interconnections with developments there, which could work both ways. Notably, a number of developing countries have made renewed submissions to the WTO TRIPS Council on various aspects of a disclosure requirement over the past year. If the issue ends up on the agenda of the WTO Hong Kong Ministerial in December 2005, as some seem to believe, it might have a direct knock-on effect on the CBD process.

The linkage with WIPO is more likely to work the other way around. Once there is political agreement to develop a certificate system or some different version of a disclosure of origin system, WIPO is likely to be the venue for much of the technical negotiation.

The direct connection to current trade and intellectual property negotiations is one reason why the certificate proposal might get accepted, despite the long history of stalemate on disclosure. Both the Doha Round of multilateral trade talks

and WIPO itself are in desperate need of a positive makeover, and this might be a compromise which offers a considerable amount of image improvement at very limited cost. As the certificate system would not really involve any constraints on patenting, except for blocking items which were clearly stolen, developed countries would not really give up much of their position. Already some developed country governments, in particular the Europeans but also countries like Canada and New Zealand, have begun to soften their previously rigid stance on disclosure of origin. Both the Swiss and the EU have submitted proposals at WIPO and the WTO which open the door a little, and they have also shown some polite interest in the certificate concept. If in exchange for accepting a certificate system they could demand more unambiguous support from developing countries for routine use of IPRs on genetic resources and traditional knowledge, the deal could actually be a very attractive one for them.

What will change?

Let's assume that after a fairly long and difficult negotiation – several delegates at the February Bangkok meeting were hinting at a ten-year marathon – developing and developed country governments do manage to agree on some version of a certificate system. This becomes the centrepiece of an international regime which otherwise mostly recycles existing language from the Bonn Guidelines and elsewhere. What does it mean in practice? How does it change present patterns of access to genetic resources?

The key difference it would make is that the government in a provider country, having issued a certificate, would have a comparatively easy way of tracking what happened to that certified resource. Patent databases could be used to identify applications involving that resource, and those applications could be checked to see whether the conditions of the certificate were fulfilled, for example royalty payments back to the provider. In the same way, intellectual property applications involving genetic resources not covered by a valid certificate could be easily tracked down. The system could even be set up to require patent offices in all member states to routinely report all relevant applications to a common database, and/or directly to the country or countries cited as providers in the applications. Similar checks could be performed in connection with, for example, public funding of research or pre-marketing product registration.

Whatever the details of the design, it is safe to assume that the certificate system would put national governments in provider countries in a stronger position when it comes to setting conditions for access through national legislation and/or negotiation of bioprospecting contracts. The tracking system of course does not provide any legal enforcement as such. There would still be a need for legal action of some sort to invoke sanctions against offenders. But in practice, the existence of the system could already serve as a deterrent.

The question is how governments would use this more powerful position. The problem with all CBD provisions about access is that, in strictly legal terms, they only regulate the relation between parties to the Convention - that is between governments. It is between governments that there exists an obligation to secure prior informed consent and to negotiate mutually agreed terms for access. But governments are seldom the direct or real holders of genetic resources, especially when it comes to in situ materials which are the ones primarily covered by the CBD and the typical objects of bioprospecting deals. The holders may be individual citizens, private organisations or companies, but very often they are rural communities or indigenous peoples who manage them as an integral part of their traditional livelihood and knowledge systems.

There is nothing to stop governments from using the authority vested in them under the CBD to strengthen the role and position of small farmers and local communities, the real biodiversity holders and managers. National sovereignty over biological resources does not mean, in itself, national ownership or total control. It means that governments have the right to set the rules of the game within their jurisdiction. There is absolutely nothing to prevent them from assigning the right to give prior informed consent and negotiate mutually agreed terms to the real holders of genetic resources – including the right to refuse consent and block access. In fact, there are strong reasons to assert that this is the only fair, or even reasonable, interpretation of the CBD. Nobody is arguing that other CBD obligations only apply to governments. It is taken for granted that conservation and sustainable use are joint responsibilities involving everyone. So why would access provisions alone have such a different scope?

In reality, the track record of many governments – including a number of the leading Megadiverse countries – is not good. Very commonly, access

The international regime process

- The idea of the international regime was first formulated, at the intergovernmental level, by the Megadiverse Group. It was one of the demands in their founding statement from 2002, the Cancún Declaration.
- At the Johannesburg Summit on Sustainable Development later in the same year, governments requested the CBD to start negotiating such an agreement.
- A mandate for the negotiation was drafted at CBD meetings in 2003 (ABS Working Group 2) and 2004 (COP7).
- The mandate identifies articles 15 (access) and 8j (traditional knowledge), plus the three CBD objectives as the main focus for the regime. It also requires that the negotiation be undertaken in cooperation with the CBD 8j Working Group.
- A first negotiating meeting in Bangkok in February 2005 (ABS WG3) was spent mainly on further clarification of the mandate. There was little agreement even on basics such as whether a regime is needed at all, whether it should be binding, whether it would be a new legal instrument or a collection of existing ones, or whether it maybe exists already.
- Next negotiating meeting will be in Spain in January 2006 (ABS WG4), and take place back to back with the 8j Working Group.
- The ABS Working Group will then report back to COP8 in Brazil in March 2006, where a new mandate will also be discussed.
- At the WTO TRIPS Council, several papers on disclosure of origin, certificates, PIC and benefit-sharing have been submitted during 2004-2005. Some expect ABS and/or disclosure of origin to become an issue during the WTO Hong Kong Ministerial in December 2005. Any decision there could directly influence the CBD negotiation.
- At WIPO, disclosure of origin has also been discussed in several technical bodies including the Standing Committee on Patents, the Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Folklore, and the meetings dealing with the reform of the Patent Cooperation Treaty. If there is political agreement on a disclosure requirement or a certificate system at CBD or WTO, this will directly influence WIPO, where more detailed technical negotiations will need to take place.

laws concentrate power within government institutions with little or no say for communities or other biodiversity holders. So there is every reason to fear that a strengthened legal position for provider governments under the new regime would not translate into a strengthened position for the biodiversity holders in those countries, but possibly the direct opposite. The worst-case scenario is that the prospect of a stronger bargaining position in gene deals would encourage governments to monopolise access control more completely, and leave communities and indigenous peoples in an even weaker position than before.

The discussions at CBD have done nothing to alleviate those fears. Yes, there is some recognition of community rights in relation to traditional knowledge, but when it comes to rights associated with genetic resources themselves, most governments carefully avoid leaving any space for community control. The notable exception at the February meeting of the ABS Working Group in Bangkok was the African Group, which consistently made a point of acknowledging the importance of strengthening community control over genetic resources as well as traditional knowledge. The Africans also very clearly articulated their vision of using biodiversity as a means for broad-based development of their societies, trying to encourage cooperation rather than competition between communities and governments.

For indigenous peoples, who have been the only really vocal group of observers so far in the CBD's ABS regime process, there is an additional and even more serious aspect to the whole discussion. Indigenous peoples are nations themselves and therefore have a claim to their own sovereignty over genetic resources under the same international law as states do. The International Indigenous Forum on Biodiversity has been very clearly saying that indigenous peoples do not ask for delegated rights from states, but claim their own sovereign rights, just as they do with territorial rights and other natural resources. This is obviously perceived as very threatening by many governments, and has led to increasingly chilly relations over the last few meetings. Most indigenous representatives have strongly pessimistic expectations on the regime negotiation and foresee an outcome that reinforces violations of indigenous rights rather than the opposite.

In terms of access, then, the international regime could change the rules of the game to some extent – most probably for the worse, as far as

local communities and indigenous peoples are concerned. But in terms of benefit-sharing, which was supposed to be the main objective, the regime will be almost completely irrelevant. This is not because it will not change the access rules radically enough. It is because access regulation in fact has very little relation to benefit-sharing.

Benefits for whom?

The tragedy of the whole ABS discussion is that it is largely based on an illusion. It starts from a complete misconception about what the benefits of biodiversity really are. Very little of the real benefits come from privatising and commercialising a few selected genes. The vast majority of the benefits from genetic resources are realised through the day-to-day use of biodiversity by billions of people on their farms and in their villages. The potential profits from scoring bioprospecting deals are insignificant compared to the immense value that unprivatised and uncommercialised biodiversity contributes on a daily basis to peoples' livelihoods, to the health of our environments and to local economic development.

It is understandable if developing country governments got carried away ten years ago by the dream about a treasure of green gold at the end of the rainforest. They were, after all, led into that dream by a whole pack of well-paid Northern academics and conservationist NGOs preaching their new-found gospel about how 'the market' would save the environment and the economies of the developing countries in one fell swoop. But today we know that, after more than a decade of CBD implementation, the number and value of bioprospecting deals has been ridiculously small, and in those few that really happened the economic returns for governments and communities alike have been negligible. GRAIN and many others have warned since the inception of the CBD that this would prove to be a dead end road.[1] Today, even the main pushers of bioprospecting and bilateral contracts have sobered up and are publishing ample empirical evidence for the failure of this naïve dream. A recent book documenting bioprospecting agreements in the Pacific Rim region lists a total of only 22 finalised access agreements in those 41 countries over the whole period since 1991.[2] There is no longer any excuse for governments to pursue this mirage and continue neglecting the real benefits.

For countless communities of farmers, forest keepers, fisherfolk, hunters and others, the crucial benefit-sharing issue is not whether they can control access. What really matters in terms of benefits is their own autonomy to continue using, managing, sharing and developing biodiversity. In this sense, it would not really make much difference to most people whether their governments succeeded in pocketing a smaller or larger part of the profits from the biotech transnationals. In strictly economic terms, it would not even matter much whether corporations or governments made some economic profit at all from bioresources.

What would make an enormous difference in benefit terms is whether national or local legislation, economic policies, patent and seed regimes, land-holding patterns and the rest of the socio-economic environment allows the space for communities to maintain a viable biodiversity-based economy. More often than not, that space has eroded tremendously over the last few decades. Conflicts over land, water and other resources have left communities with insufficient control to continue to sustain or secure a livelihood. Privatisation of research in combination with patents and other monopoly tools have limited access to genetic materials. Seed legislation has outlawed traditional varieties and forced a blanket transition to uniform commercial seeds. Even biodiversity protection schemes, such as nature reserves, have impeded traditional biodiversity management. If governments were serious about the benefit-sharing objective of the CBD, they would be focusing on these major structural factors and flaws which really determine who benefits or not from genetic resources, not on the negligible contribution of a few biotrade deals.

When groups like GRAIN point to community perspectives in these discussions, we are sometimes criticised for diverting attention away from real solutions. Nothing could be more wrong in this case. Local biodiversity management systems of rural communities and indigenous peoples are absolutely central to any consideration of benefits from biodiversity, in two distinct but complementary ways.

Firstly, biodiversity conservation and use just do not make sense without community involvement and control. Many of the truly biodiverse environments still remaining in the world rely on the active and effective custodianship of local communities. When they are not disempowered by mainstream development programmes and practices, local communities have a lot of capacity to use and generate plenty of benefits from biodiversity. Unless government policies are turned around so that communities can keep

1 - The Gaia Foundation and GRAIN, "Biodiversity not for sale: Dismantling the hype about benefit sharing", *Global Trade and Biodiversity in Conflict*, Issue No. 4, April 2000, London/Barcelona, 19pp. Available at *grain.org/briefings/?id=134*.

2 - Santiago Carrizosa, Stephen B. Brush, Brian D. Wright, and Patrick E. McGuire (eds), "Accessing Biodiversity and Sharing the Benefits: Lessons from Implementing the Convention on Biological Diversity", *IUCN Environmental Policy and Law Paper No. 54*, World Conservation Union, 2004, 316pp. *http://www.iucn.org/themes/law/pdfdocuments/EPLP54EN.pdf*

their autonomies and freedoms with respect to their environments and cultural practices, the destruction of biodiversity will simply accelerate and the CBD will have utterly failed in its primary objective.

Secondly, it is mainstream neo-liberal development planners who need to learn about benefit-sharing from rural communities, not the other way around. The idea that value can be created from biodiversity by first monopolising genetic resources and then selling them for a profit is not only wrong, it is also destructive. Biological diversity can only be monopolised with great difficulty, using expensive and artificial control systems such as patents, contracts and courts. Where these monopolies are enforced, the long-term effect is not that any new additional net value has been created, but rather that the immense day-to-day value of biodiversity in the hands of local communities has been taken away and destroyed, thereby diminishing the total benefits available to society as a whole.

People have generated, and will continue to generate, a variety of very sophisticated patterns of creating and sharing which work on the principle of balancing rights with responsibilities. We see it every day in the freer sectors of our economies, be it computer programming, herbal medicine, local farming or independent media. In the sphere of biodiversity, genetic resources have traditionally been widely shared, but not disconnected from the culture they come from or the chain of responsibility to take care of them. Keeping those links is what 'protecting' biodiversity is really about.

If the real potential for biodiversity-based development is to be realised, this is the kind of approach to benefit-sharing that needs to be allowed, promoted and implemented. Condemning farmers to handful of 'super seeds' and royalty rackets will defeat rather than promote development in this direction, and with it the very objectives of the CBD.

Further reading

All official CBD documents about the ABS process are available on the CBD website :
http://www.biodiv.org/programmes/socio-eco/benefit/

The Megadiverse Group has its own website at *http://www.megadiverse.org*, but it has been offline for a while. Their founding document, the Cancún Declaration, can be found at
http://www.unido.org/file-storage/download?file_id=11803.

A very informative report of the most recent Megadiverse meeting, in New Delhi in January 2005, by the representative of the UN Development Programme, is available at
http://www.undp.org/biodiversity/events/Megadiverse_Meeting.html

All submissions to the WTO TRIPS Council are available through *http://docsonline.wto.org*. Some recent documents dealing with the relation to CBD and the disclosure of origin issue are IP/C/W 429 (Brazil, India and others), IP/C/W 434 (United States), IP/C/W 438 (Brazil and India), and IP/C/W 441 (Peru).
These documents are also available on the GRAIN website: *http://grain.org/go/tripsreview*

The current state of discussions about disclosure of origin at WIPO can be sampled at *http://www.wipo.int/tk/en/genetic/proposals/*. Of special interest are the submissions by Switzerland and the European Union, which both make some attempt to accommodate developing country demands.

The certificate idea is not yet very well developed, but a couple of recent contributions can be found in the proceedings from a 2004 expert meeting organised by the Canadian and Mexican governments. One by Brendan Tobin of the UN University at *http://www.canmexworkshop.com/documents/papers/IV.1.2.pdf*, and another by José Carlos Fernández of the National Institute of Ecology in Mexico at *http://www.canmexworkshop.com/documents/papers/IV.1.1.pdf*. This website also contains a number of other papers related to the CBD ABS discussion. There is also a just published report commissioned by the German Federal Agency for Nature Protection, which gives a good overview of the certificate discussion in particular, but also of the general background and status of the CBD ABS regime negotiation, plus a quite comprehensive bibliography. Available at *http://www.oeko.de/oekodoc/233/2005-001-en.pdf*

For a collection of viewpoints on the regime negotiations, mainly from NGOs and developing country delegates, check out a book published by the Edmonds Institute, *The Catch: Perspectives in Benefit-sharing* (ed Beth Burrows). Not available electronically, but can be ordered inexpensively from *http://www.edmonds-institute.org/publications.html*. One chapter from this book, an indigenous perspective by Debra Harry and Le'a Kanehe of the Indigenous Peoples' Council on Biocolonialism, can be downloaded from the IPCB website at:
http://www.ipcb.org/publications/other_art/bsinabs.html