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Basic Research – an introduction:

When do PIC and simplified access measures apply? What are the risks?

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Overview of the session

Introduction to the relevant articles of the Nagoya Protocol

- What's in ? What's out?
- Concerns and possible solutions

Presentation of practical cases/examples from the region and their categorization

Discussion

Relevant articles of the Nagoya Protocol



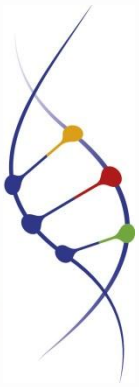
Article 2 Use of Terms

(c) „Utilization of genetic resources“ means to conduct **research and development on the genetic and/or biochemical composition of genetic resources**, including through the **application of biotechnology** as defined in Article 2 of the Convention;

(d) „Biotechnology“ as defined in Article 2 of the Convention means any **technological application that uses** biological systems, living organisms, or **derivatives** thereof, to make or modify products or processes for specific use;

(e) „Derivative means **a naturally occurring biochemical compound** resulting from the genetic expression or metabolism of biological or genetic resources, even if it does not contain functional units of heredity.

What kind of research triggers the application of PIC according to the Nagoya Protocol ?



➡ Access to genetic resources for their utilization:

- **Research and development**
- on **genetic and/ or biochemical composition of genetic resources** (including through the application of biotechnology)
- Derivatives?

➡ Excluded:

- uses which do not represent R&D (e.g. commodity trade, processing, commercialization)
- any research not on **genetic and/ or biochemical composition of genetic resources** (e.g. phenotypical taxonomy)

Relevant articles of the Nagoya Protocol



Article 8 Special Considerations

In the development and implementation of its access and benefit-sharing legislation or regulatory requirements, each Party shall:

- (a) Create conditions to promote and encourage **research which contributes to the conservation and sustainable use of biological diversity, particularly in developing countries, including through simplified measures on access for non-commercial research purposes**, taking into account the need to address a change of intent for such research;
- (b) ...

What can be classified as "non-commercial"?



No clear separation between commercial and non-commercial research (see UNEP/CBD/WG-ABS/7/INF/6):

- Institutions and companies can be engaged in either type of research
- Same scientific methods and research processes (specimen collecting, biochemical analysis etc.)
- Same types of biological material and genetic resources
- Both types of research can serve conservation and sustainable use of biological diversity

But:

- Commercial research designed to produce results and benefits of commercial value, which are normally held privately and not put into the public domain.

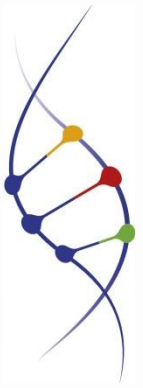
What can be classified as "non-commercial"?



Some indications for „commercial“ research

- Intend to apply for IPR (e.g. patents)
- Intend to not disclose research results
- Intend to transfer the material to a commercial partner, which might also belong to the same institution
- Direct involvement of a commercial partner in access and utilisation
- Indicators for pre-commercial use and thus a great potential for third party transfer etc. might be:
 - Statutes and policies of not-for-profit institution that put strong emphasis on the marketability of the research results
 - High quantities of accessed material, e.g. 100kg and more

What kind of research “contributes to the conservation and sustainable use of biological diversity” ?



Research communities particularly relevant to conservation and sustainable use of biological diversity (see UNEP/CBD/WG-ABS/7/INF/6):

- Taxonomy, systematics, and evolutionary biology
 - Microbial systematics and ecology
 - Ecology and ecosystem research
 - Genomics and Metagenomics
- ➡
- Contribute data to public databases;
 - Deposit specimen and samples in museums, herbaria, botanical gardens, seedbanks etc. for use by other researchers worldwide;
 - Disseminate new knowledge through peer-reviewed publications, conferences etc.

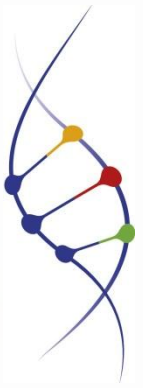
What are major concerns of countries providing GR/aTK in respect to non-commercial research?



Concerns	Possible solutions
Change of intent of a research project from non-commercial to commercial	Requirement in MAT to notify in case of change of intent and to apply for new PIC and negotiate new MAT
Transfers of genetic material to third parties and by third parties	Standard terms in MAT on third party transfer and use
Publication of information that leads to commercial development	Agreement to have pre-publication access to research results Involvement of local research institutions/researchers Requirement to acknowledge source country in publications

(see UNEP/CBD/WG-ABS/7/INF/6)

Thank you!



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