

The issue of bio-trade and bio-prospecting in Namibia:

An analytical Overview

MARRAKECH ABS WORKSHOP

By

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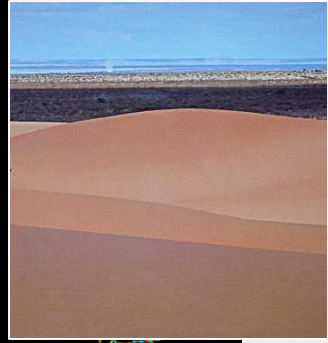
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“Access to genetic resources”

Outline of presentation

- I. Introduction on Namibia Environmental Frame Conditions
- II. The Convention on Biological Diversity
- III. Brief overview of the international context of ABS
- IV. The international regime on ABS
- V. Namibian Response

WHAT ARE NAMIBIA'S COMPARATIVE ADVANTAGES ?



✓ VAST OPEN SPACES AND WILDERNESS AREAS

✓ ABUNDANT AND DIVERSE BIODIVERSITY AND WILDLIFE POPULATIONS that are well adapted to

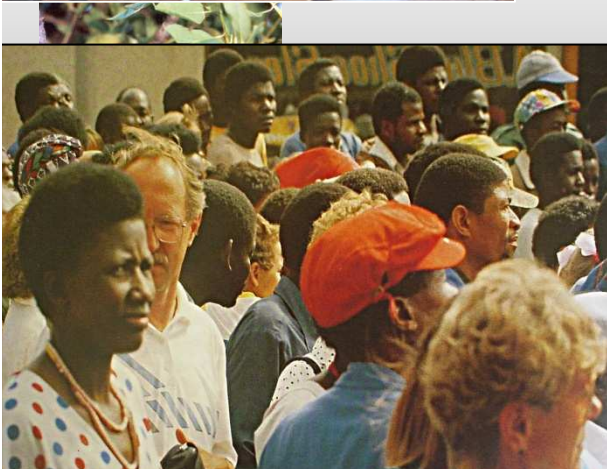
Namibia's harsh climatic and physical conditions, and have extremely high *direct & indirect use value*.



✓ UNCONTAMINATED MEAT AND FISH PRODUCTS



✓ Rich CULTURAL diversities and valuable TRADITIONAL KNOWLEDGE



✓ Sen T. Shikongo
Efficient SERVICE Industries
"Access to genetic resources"

What we have is this...

Namibia endowed with unique climate,
wealth of unique diverse genetic resources,
species, and ecosystems

- Amended laws to allow for CBNRM
- Sustainable use as incentive for conservation
- Best practices experience generated and rolled out
- Real benefits generated

Is anyone interested?

- The Green diamond- Hoodia
- The old trusted devils claw
- German Pharmaceuticals and Namibian Venom
- Attempt to smuggle live scorpions
- Many request to supply genetic materials
- Marine bio-prospecting
- Termite queens harvesting
- Travelling with lizards

International context

- CBD aims to make conservation of biological resources an urgent and immediate goal for all countries (1992)
- WTO's Trade Related Aspects of Intellectual Property rights (TRIPS, 1995)
- International Treaty on Plant Genetic Resources for Food and Agriculture- ensure that access to genetic resources for F&A are not restricted (2001)
- UPOV-Union for the Protection of New Varieties of Plants, provides common rules to protect new plant var. (1961, 1978, 1991)
- OAU Model Law ,to protect rights of local communities (1999)

UN Convention on Biological Diversity (CBD)

- Namibia is a signatory to the CBD
 - Signatories have to get permission before they collect resources and knowledge (PIC)
 - agree on the terms for exchange (MAT)
 - To share benefits fairly with local providers and countries (Fair and Equitable Benefit sharing)
 - Bonn Guidelines
 - Nagoya Protocol

Relevant questions with regard to bio-prospecting

- *Which industries are involved?*
 - Pharmaceutical, seed, crop protection, cosmetic and personal care, botanical medicine, biotechnology, and horticulture industries
- *How do industries access & use genetic resources and traditional knowledge?*
- *How can holders of traditional knowledge be protected from exploitation by these companies?*

Namibian Response

- 1994- Namibian Biodiversity Programme established
- 1995 Marula oil project
- 1998-First meeting of the bio-trade Working Group
- 1999-MET and MAWRD started developing the policy and legislation on access to genetic resources and traditional knowledge protection
- 2000 April-Indigenous Plants Task Team
- 2004-Namibia chairs the first round of negotiations for an international regime
- 2007-Interim Bioprospecting Committee
- 2010-Namibia continue involvement at international level until Protocol is agreed in 2010
- 2011-Letter for signing and ratification of protocol already submitted

Key issues

- Aims of the policy and legislation
- Scope of the policy and legislation
- Mechanisms of access and benefit sharing
- Institutional framework and responsibilities
- Demands side /market issues
- Harmonization with national, regional and international agreements
- Education and awareness building

Constraints faced

- Determining who constitute a community
- Determining who should profit from a benefit-sharing mechanism
- The land issue: Who has access to the land? Who has access to the resource?
- Protection of knowledge innovations and practices of indigenous community, IPR and community rights
- Who is helping the communities to maximally capitalize on their resources once access and benefit-sharing has been secured?

The Approach

- We adopt a **national perspective based on:**
 - Pro-activity and case by case approach
 - Simply recognizing that GRN own the national genetic endowment and its designated competent authority can authorize use of those genes
 - We bring in traditional knowledge only when it is clearly used to “shortlist” bio-prospecting targets

Key questions considered in approach

- Does Namibia have the **scientific resources** to conduct its own systematic bio-prospecting programme?
- What can we do to enhance Namibia's **bio-prospecting capacity**?
- What **criteria** shall we use to select our service providers and partners?
- Is our response so far **appropriate**?
- Use the Protocol to inform legislation that will provide incentives for benefit generation, sharing and fair play?

Structure of the draft bill

- PART I – Definitions and Scope
- PART II – Ownership of Genetic Resources and associated Traditional Knowledge
- PART III – Institutional arrangements
- PART IV – Access to Genetic Resources
- PART V – Community Rights
- PART VI – Farmer's Rights
- PART VII – Plant Breeders' Rights
- PART VIII – Offences, Penalties and Forfeiture
- PART IX – Regulations
- PART X – General Provisions

The Act is to *inter alia*:

- Promote building of national and grassroots scientific and technological capacity
- Promote entrepreneurial spirit
- Promote appropriate mechanisms for fair and equitable sharing of benefits
- Provide appropriate system of access to genetic resources and associated TK and technologies subject to PIC
- Recognise and protect farmers' Rights and plant breeder's Rights

Current status of response ?

- Namibian took a policy decision not to finalise the ABS bill before the conclusion of the ABS Protocol negotiations
- An interim bio-prospecting committee has been established
- The process of finalisation of the Bill was started in 2010 December
- We have instructions to finish by May

What are the benefits of controlled bio-prospecting?

- **Joint research and development**
 - collaboration in training and research programs
 - participation in product development
 - Joint ventures and co-authorship of publications
 - NB to integrate rural populations into the research as far as possible
- **In kind benefits**
 - e.g. augmentation of national collections in source countries
- **Training**
 - science, conservation of information technology and management and administration of access and benefits-sharing

What are the benefits of controlled bio-prospecting? (*continued*)

- Sharing of information
 - Taxonomic, biochemical, ecological and other info, through research results, publications and educational material
- Development of partnerships and alliances
 - could facilitate acquisition of essential professional, technical and financial assistance
- In cases of commercialisation
 - monetary benefits such as royalties, milestone payments and sustainable income

If there is no way forward...

- Opportunities will go to other countries with more active approaches
- Opportunities will by default devolve to the Namibian or other countries in the region (and benefit well-connected individuals or companies rather than rural communities)
- Bio-prospectorators will in frustration turn to bio-piracy
- Namibia will have to be satisfied with the left overs of its biodiversity heritage, or engage in drawn out legal proceedings of uncertain outcome to recover what has been lost



What would be the best case scenario?

- There is a centralized control of biotrade and bio-prospecting
- There is facilitation and promotion of bio-prospecting activities pending enactment of national legislation
- We ensure that optimum value is added to products before export
- We enhance national income through the commercial sale of natural products produced from Namibia's indigenous biological resources
- We empower resource managers through income enhancement, benefit sharing and technology transfer
- We ensure sustainable resource use of wild gathered products
- We build Namibia's reputation for the sustainable supply of quality natural products

Thank you

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