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SUBMISSIONS: Welcome from all civil society groups. Email to jdempsey@cbdalliance.org

What we need – and what we don't need For a credible and effective ABS protocol

Bern Declaration, ECOROPA, EED, and TWN

Mindful of the ongoing biopiracy and the urgent need for international regulation and the realisation of fair and equitable sharing of benefits.

Needing a protocol *against* biopiracy.

Not needing a protocol *for* biopiracy.

Not needing an international treaty that fails to correct injustices.

Needing a broad scope that covers all cases of biopiracy.

Not needing a narrow scope that legitimizes past and present acts of biopiracy and their resulting “treasure chests”, including simplified access to pathogens with broad exceptions under the guise of ‘emergencies’ or even worse “preparedness”.

Needing to reiterate the rights of indigenous peoples as contained in the United Nations Declaration on the Rights of Indigenous Peoples.

Not needing lip-service on the rights of indigenous peoples and local communities that in fact subordinates them to “a pro-pirate” national laws.

Needing strong compliance measures that do not allow biopiracy by developed countries and ensuring redress for developing countries, for indigenous peoples and local communities.

Not needing a vast increase of “could”s and “may”s, “as appropriate”s and “inter alia”s that does not give added value and meaning to Article 15 of the CBD.

Needing a mandatory list of check points.

Not needing user countries to select check points at their discretion.

A special call to the following Parties:

1. The EU/Germany and Australia to drop the provisions on pathogens, emergencies and related issues.
2. Canada to agree on taking note of the United Nations Declaration on the Rights of Indigenous Peoples -which is already a bare minimum.
3. The EU and Australia to stop introducing text that could lead to subordinating the new protocol to other international instruments and/or organisations.

*The Dodo
Award
winners
are:*

*Canada
&
EU*

*For undermining
the ABS Protocol
(amongst other
things).*

*For full details
please see
www.cbdalliance.org*

In the Name of the Tiger

Ashish Kothari and Sreetama Gupta Bhaya, Kalpavriksh, India

The tiger's plight in India is a classic case of all that is wrong with the world of 'development' and 'conservation'. In desperately trying to catch up with China's rate of economic growth, it is unmindful of how industrialization, infrastructure, and mining gobble up valuable ecosystems. And then scapegoats are made of local communities who have lived in natural habitats for generations, blaming them for the decline of wildlife. Up to 100,000 families are to be displaced ostensibly to secure India's tiger habitats.

In taking such actions, India is in violation of both international obligations and its own internal laws and policies, including a national law on forest rights that would have helped it meet such obligations. It allows massive fragmentation of habitats by industry, ignoring its commitment to do all it can to conserve biodiversity. In relocating people without due process and meaningful consent, it violates several provisions of the CBD, including of the Protected Areas Programme of Work (not to mention international human rights and indigenous rights instruments). Ironically, in some areas both the faulty approaches overlap, e.g. in Srisailem Tiger Reserve, prospecting for uranium mining has been allowed, while initiating the displacement of an ancient tribe (Chenchus) in the name of conservation. Though mining proposals have been rejected by the current environment minister from some tiger habitats, the government is bent on opening up as many other areas for mining as possible.

Over the last four decades India has blindly copied the Western model of exclusionary conservation, leading to the forcible displacement or dispossession of thousands of families from their traditional habitats (on top of the millions displaced by so-called 'development'). Much of the relocation is in violation of domestic and international law.

A Right to Information application filed by the NGO Kalpavriksh, revealed that the National Tiger Conservation Authority does not have the documents required to show that tiger reserve officials are following steps required by law. This includes ecological assessments to show whether local people are causing irreversible damage and that co-existence is not possible, as also consent from village assemblies (*gram sabhas*) for the notification of tiger habitats or for relocation.

In 2006, India promulgated a law providing for rights to forest lands and resources to forest-dwellers. The Indian government can proudly proclaim this Forest Rights Act as compliance to its obligations under international agreements. Unfortunately, it cannot be proud of its record in implementing this law, nor of the way in which it is violated in the name of conservation.

Some communities or families *do* want to relocate as no development facilities have reached them till date, or because they face local social oppression. However, the Forest Rights Act mandates that communities can live and have access to development facilities in the area; and the state has an obligation to help them deal with local exploitation. This option of continuing to stay on in their traditional habitats with full access to welfare measures, is often not made available. What appears to be 'voluntary' relocation is actually 'induced'. A compensation of US\$20,000 per family is offered as further inducement.

Of course, the provision of 'development' facilities to villages deep inside forests could cause habitat fragmentation and loss. And tigers *do* need spaces where they can breed and proliferate. But specific conservation measures needed to achieve this can be negotiated with communities based on full respect to and vesting of the rights they are entitled to. Current or changed behaviour of resident communities, building on their own traditions, may well fit within the conservation requirements. Such changes are often manifested in Community Conserved Areas, and can be achieved on larger scales with appropriate governmental or NGO inputs. Relocation with free prior informed consent of course also remains an option. The solution has to be site-specific, based on the ecological and socio-cultural context.

India's obligations under the CBD require it to follow a fair and transparent process, using the best available knowledge (traditional and modern), and exploring all options of coexistence and relocation with the full involvement and consent of local communities. These obligations also require keeping extractive industry and other destructive processes away from crucial wildlife habitats. Without such actions, mistrust and conflicts between government and communities will continue to prevail, with ominous portends for the tiger, its habitat, and local people. Is this the approach India wants to showcase on the road to hosting COP11

New Tiger Reserve to impact Soliga tribe and biodiversity

Nitin Rai, ATREE, India

Biligiri Rangaswamy Temple Wildlife Sanctuary in south India is home to unique wildlife as also Soliga *adivasi* (tribal) communities. A proposal to declare this area as a tiger reserve has recently been approved. If the same approach is followed as in other tiger reserves, it will displace or dispossess 15,000 Soligas. Ironically, long-term ecological studies undertaken by the Ashoka Trust for Research and Ecology and the Environment (ATREE), have demonstrated that the Soligas' harvest of fruits and honey is not detrimental to regeneration. In fact, suppression of the traditional fire-based management by the Soligas, due to protected area rules, has caused a significant spread of *Lantana* weeds. Relocation of Soligas will accelerate invasion by this alien species with serious impacts on wildlife.

Tiger numbers have increased over the last several years despite forest use and cultivation of smallholdings by Soligas, suggesting that tigers can share forest areas with people. Local communities should be made full partners in the endeavour to increase tiger numbers. A community-based approach to protecting biodiversity, using long-established local knowledge combined with new expertise where necessary, would be much more in line with India's commitments under the CBD.

The stakes are high and farmers need you!

Calling all governments with vision

Susan Walsh, USC Canada

Small holder and indigenous farmers' time-tested knowledge and practices are vital to the conservation of biological diversity. In particular the knowledge and practices of women farmers are indispensable. Their knowledge and practices are key to food security as well as to effective climate change mitigation and adaptation. Governments intent on stopping biodiversity erosion and feeding the nearly billion starving people on this planet must take a closer look at these central actors. If respected and supported, these farmers can show us how to work with nature in far more sustainable ways.

Plant genetic resources nurtured on small holder and indigenous farmers' landscapes and within farmer-run seedbanks, for example, are living laboratories of what can be done in the face of ever increasing climate extremes. In Ethiopia - a center of origin and plant genetic diversity - farmers select and breed up to 50 varieties within staple crops like sorghum on their farms, confident that at least some will thrive under growing conditions that are increasingly hard to predict. Andean potato farmers require a wide range of characteristics in their potatoes to ensure on-farm diversity that will pull them through the toughest of times. They thereby also conserve diversity in the world's 4th most important food staple. Nepalese farmers on high mountain hillside have identified a large number of wild and uncultivated foods that both supplement field crops with a short growing season and nutritional needs. These small-holder and indigenous farmers steward healthy soils all over the world that are capable of storing more carbon than even the forests they conserve. Next to oceans, fertile soils are the biggest carbon sequesters.

IAASTD, the International Assessment of Agricultural Knowledge, Science and Technology for Development - funded by World Bank and UN and endorsed by 59 countries and over 400 experts worldwide - captures this encouraging news. It shows that small holders and indigenous farms can play an important role within changing climates. It also shows that next to the billions spent on industrial agricultural research and its products, the cost of conservation-based, ecological agriculture is extremely modest, and that it is affordable precisely because the system uses the locally available products nature provides.

What can COP 10 do?

There are several serious threats to this vibrancy that COP10 leaders must challenge within the Convention. First and foremost is the active promotion of Green House Gas (GHG) producing, high tech food production models. These systems, with their expensive packages of seed and synthetic inputs, do not perform well on the heterogeneous landscapes of small holder and Indigenous farmers. They destroy their soils and often lead to indebtedness.

Equally harmful is the rapid expansion of land purchases and investments for three purposes: to feed foreign cities, to develop agrofuels for the automobile and energy industry, and to line the pocketbooks of speculators. More and more local farmers are being forced off their farms by the unabashed growth of these land grabs.

International trade regimes and rules that favour corporations also kill rural livelihoods and undermine local markets by undercutting local prices. In Ghana, for example, it is cheaper to buy a bag of frozen chicken parts from the EU than a local, fresh chicken. Perverse incentives and market mechanisms that commodify landscapes will have a similarly destructive result.

Intellectual property rights, national seed legislation and the threat of Terminator seeds are taking seed conservation and exchange out of farmers' hands. In doing so they undermine a system of seed exchange that is responsible for the plant genetic resource diversity we have today and to which we must hold on if farming is to have a future. Last but in not least, genetically engineered, climate ready crops - based on the notion that a techno-fix is all that is required - reflect an business-as-usual approach that is responsible for the problems we are now so very anxious to resolve.

Governments with a vision understand that diverse and ecologically sound farming systems are key to biodiversity conservation and hunger reduction. During COP10 negotiations, they must exercise their leadership by insisting on language and detail that strengthens the importance of agricultural biodiversity and the joint program of work with the Food and Agriculture Organization (FAO). The stakes are high and small holder and indigenous farmers are counting on their support.

Parties to the CBD CoP-10: urgent attention to ABS negotiations!

WWF International

The Convention on Biological Diversity has a comprehensive and balanced approach based on the three objectives: biodiversity conservation, sustainable use, and the benefit sharing from the use of genetic resources. Attention to the CBD objectives, especially to the third objective has been uneven since Rio 1992. *WWF recognises the CBD to be the most important international biodiversity agreement.* WWF believes that benefits from biodiversity are to be shared equitably. *A protocol on access to genetic resources and the fair and equitable sharing of benefits deriving from their use (ABS) is long overdue.* The protocol ought to respect the interests of the biodiversity-rich countries, securing the rights of indigenous peoples and local communities to genetic resources and associated traditional knowledge and setting a secure global regulatory framework for genetic resources associated business.

An effective protocol should contribute significantly to poverty alleviation, sustainable development and nature conservation, as well as making the whole CBD more effective by acting as an incentive for countries and local people to value and protect their biodiversity. An ABS Protocol would benefit both the providers and the users of biodiversity and genetic resources, and supply additional funding for the conservation and sustainable use of biodiversity. *In the International Year of Biodiversity, it is now time for the Parties to the CBD to demonstrate their commitment to making an ABS Protocol happen.*

Costa Rica receives award for its biodiversity policies, but what is *really* happening over there?

Eduardo Aguilar, COECOceiba

The CBD and the World Future Council (WFC) have decided to award the best policy efforts in biodiversity towards just, sustainable and peaceful societies, on occasion of the international year of biodiversity. This year's winner will be Costa Rica's biodiversity law (#7788), the first comprehensive legislation enacted in the world on this matter since 1998. The law was created through an unusually participatory process, involving environmental, indigenous and farmers' organizations along with many governmental institutions. This participation was consecrated through the creation of a technical office (CONAGEBio) to manage the access to the elements of biodiversity, benefit sharing and other important aspects contemplated in the CBD.

It is a great honor to be recognized for such efforts - if only they were fully true.

In 2008, only ten years after this law entered into force two presidential decrees were published with the complicity of the Ministry of Environment and the Ministry of Commerce which severely undermined the possibility for indigenous peoples to choose for an alternative *sui generis* system in order to protect their traditional knowledge. Instead, the amendment to article 78 opened up a window for patents on inventions derived from traditional knowledge. This process was conducted without any consultation to the indigenous peoples, disrespecting all aspects of the 169 ILO treaty. The second amendment, on article 80, undermined the role of

CONAGEBio as manager and steward of biodiversity in Costa Rica, by decreasing its powers over opposing patent applications. According to the new text, this technical office can now only deny such intellectual property claims if they do not comply with the patent legislation.

This has not been the only attempt of the Costa Rican government to change important clauses of the law: they have also tried to change the conformation of the CONAGEBio itself by diminishing the presence of civil society organizations. What is most striking is that all these modifications have been made in order to accommodate the needs of newly signed free trade agreements (such as CAFTA) that enshrine trade over human rights and nature conservation.

A legislation lacking its original attributes should not be rewarded for complying with the CBD principles. It certainly should not be hailed as a positive example worldwide. Global awareness should prevent other countries from following the steps of what Costa Rica's government has done with this law. And if Costa Rica must receive a prize it should rather be for enduring all the obstacles it has faced since its inception twelve years ago.

COECOceiba is the Costa Rican chapter of Friends of the Earth International. eduardo@coecoceiba.org

The Charge of the ABS Bracket Brigade

Dr. N.D. Bracket (with thanks to Tennyson)

Half a bracket, half a bracket,
Half a bracket onward,
Into the small group on sado-bracketism,
Strode the three hundred.
"Forward, the bracket brigade!"
With the full metal bracketed egos:
Into the small group of lawyers,
Strode the three hundred.
Forward, the bracket brigade!
Was there a lawyer dismayed?
No, though their colleagues knew,
Their overinflated egos will be all our undoing.
Theirs not to make reply,
Theirs with no good reason why,
Theirs but to claim red lines and die:
Into the small group of lawyers,
Strode the three hundred.
Brackets to the right of them,
Brackets to the left of them,
Brackets in front of them,
Brackets to the rear of them.

Pomposity and confusion,
Amid a fog of brackets and bluster.
Into the Death of ABS:
Into the Hell of too many lawyers,
Strode the Convention.
Flashed all their brackets bare,
Flashed as they turned in air,
Bracketing their opponents there,
All the COP wondered.
Plunged into the bracketed smoke,
Through the lines they almost broke,
Until shattered and sundered,
Crawled back the three hundred.
When will their smug vainglory fade?
Oh the wild stupid brackets they made!
All the world wondered.
Honor the Convention on Biological Diversity!
Sense must prevail in ABS!
Onwards, onwards,
Noble three hundred!