



# UN BBNJ Intersessional Workshop on MGR

## Exploring Different Benefits and Benefit-sharing Approaches

Thomas Greiber, Senior Legal Officer, IUCN Environmental Law Centre

INTERNATIONAL UNION FOR CONSERVATION OF NATURE



### Abstract

- Different benefit-sharing approaches
- Different types of benefits
- Benefit-sharing in practice

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## Benefit-sharing Approaches

- **Bilateral approach (e.g. CBD & Nagoya Protocol):**
  - Based on sovereign rights of States over their genetic resources
  - Transactions btw. provider & user requiring prior informed consent (PIC) & mutually agreed terms (MAT)
- **Multilateral approach (e.g. ITPGRFA):**
  - ITPGRFA also recognizes sovereign rights of States over their plant genetic resources
  - However, Multilateral System created establishing common pool of resources
  - ABS based on multilaterally agreed terms & conditions (non-transactional)



## Benefit-sharing Approaches

- **Main differences:**
  - Bilateral = individual contracts with specifically negotiated benefits & benefit-sharing linked to specific resource to which access is granted
  - Parties under Nagoya Protocol only encouraged, but not required to direct benefits to conservation and sustainable use of biodiversity
  - Multilateral = common pool of resources exchanged according to standard agreement
  - Benefits directed through multilateral fund toward conservation of PGRFA in developing countries



## Different Types of Benefits

- 2 broad categories: monetary & non-monetary
- Non-exhaustive list of both in Nagoya Protocol Annex
  - Envisages exchange of benefits in bilateral relationship
  - BUT provides ideas for discussing benefits & benefit-sharing structures in other constellations
- Different benefits to be found also in ITPGRFA or WHO PIPF
- Applicability/efficiency of different types of benefits in ABNJ context need to be examined



## Monetary Benefits

- Payment of money at different stages in chain of access & utilization of genetic resources
  - Payments at outset of R&D (Para 1(a), (b))
  - Payments at milestones (Para 1(c))
  - Payments after commercialization (Para 1(d), (e))
- Financial agreements related to research undertakings
  - Funding to support research activities (Para 1(h))
  - Engagement in joint ventures (Para 1(i))
- Payments to trust funds (Para 1(f))



## Non-monetary Benefits

- Exchange of information
- Different types of access
- Collaboration & cooperation
- Capacity-building
- Sharing of non-monetary benefits often perceived as most valuable consequences of ABS



## Non-monetary Benefits under UNCLOS

- Provisions related to marine scientific research in general embody some form of benefit-sharing:
  - Promote international cooperation in marine scientific research (Articles 242 & 143.3(a))
  - Make knowledge resulting from marine scientific research available by publication and dissemination (Articles 244.1 & 143.3(c))
  - Promote data & information flow & transfer of knowledge, in particular to developing States (Articles 244.2 & 144.2)



## Benefit-sharing in Practice

- Monetary benefit-sharing (-)
- Non-monetary benefit-sharing (+) to some extent
  - Materials & information partly in public domain (gene banks, digital databanks, international scientific journals)
  - Efforts to standardize & integrate datasets
  - International research programs & initiatives at global & regional level
- Number of global benefits created already today
  - R&D = prerequisite for better understanding of marine ecology
  - Some marine-derived natural products contribute to public health, bioremediation or food security



## Obstacles in Practice

- No structured, fully comprehensive, inclusive and equitable benefit-sharing practices so far
- Disadvantage not only for developing countries but rather entire global research community
- Benefit-sharing practices largely depend on
  - Particular stakeholders involved
  - Types of resources dealt with
  - Levels & quality of information made available



## Conclusion

- Strength: existing practices of benefit-sharing & benefit-sharing obligations inherent in UNCLOS
- Weakness: unclear to which extent these obligations are applied with regard to MGR from ABNJ
- Opportunities & challenges:
  - How to overcome general problems in accessing data & samples when publicly accessible & when not
  - How to address existing inefficiencies in finding data & samples (e.g. standard-setting & promotion of transparency)
  - How to build capacities of developing countries to access & use materials & data
  - How to create an enabling environment for future R&D



**Thank you very much!**

Contact: [thomas.greiber@iucn.org](mailto:thomas.greiber@iucn.org)