

Nauru Statement – MGRs

There are TWO different ‘WHATs’ – WHAT is the scope of MGRs accessed and used that warrants benefit-sharing; and WHAT is being shared.

The first WHAT -- the obligation to share benefits arises from carrying out activities that can be categorised as Marine Scientific Research with respect to MGRs of Areas BNJ. These activities include collection and use of tangible MGR as well as the use of these MGR in the form of genetic sequence data. Further, as long as genetic sequence data is identifiable from MGRs of ABNJ, their use will give rise to an obligation to share benefits. And we note that the terms DSI/DSD/ and Genetic Sequences need explanation, and are being used here inter-changeably as placeholders.

The use of genetic sequence information and data stored in databases are an important activity relating to MGRs, and we would want accessing such ex situ databases to be one of the activities to be covered by an obligation of benefit sharing.

The second WHAT - monetary and non-monetary benefits arising from the access and use of MGR, and genetic sequence data arising from those MGRs and the access to traditional knowledge of indigenous peoples and local communities that is useful for unlocking the value of MGRs.

In the case of both WHATs – benefit-sharing must be appropriate to the activities undertaken and should include different mechanisms including Capacity Building and Technology Transfer through the pipeline of access, use and commercialisation.

Post-cruise dissemination of information (in the form of genetic sequence data) and samples while one aspect of benefit sharing is also good practice and responsible innovation. Dissemination of genetic sequence data and samples alone will not benefit developing countries unless it is also accompanied by capacity building and technology transfer that facilitates the use of the information disseminated.

On the HOW – Any benefits-shared must be on the basis of objectives, and agreed principles and approaches. Emphasise need to develop principles and approaches in order to future proof the ILBI and build in capacity for unprecedented situations.

We view benefit-sharing as being more than a passive exchange, but an iterative process where concerted effort is made to understand capacity and technological needs of developing countries; informed and guided by a notion of responsible and inclusive innovation. It must include building capacity and facilitating access to technologies developed in the process; in the context of existing technology gaps that are set to be exacerbated by advancing MSR.

The iterative nature of benefit-sharing will also require agreement on monetary benefits to be a two-way process with relevant stakeholders, including ensuring that indigenous peoples and local communities whose traditional knowledge is useful for unlocking the

value of MGRs receive appropriate benefits in return for consenting to the use of their traditional knowledge in this manner.

PSIDS has emphasized fair and equitable benefits sharing in order to recognise both procedural and substantive outcomes of justice and to maintain compatibility with other international agreements on benefits sharing.

An important issue emerging is that not enough emphasis is placed on benefits arising from the utilization of MGRS. Sharing of genetic sequence data, meta data itself is being seen as benefit sharing. An open system where everybody would have access to this information, and adding value to the world. This can only be a necessary and not a sufficient condition of benefit sharing

- 1) Not every state has the capacity to access or use this information. In effect in combination with IP rights it becomes a first to access and use system, which goes against the principle of benefitting all of mankind.
- 2) Crucially this is an open system minus any commercially valuable information. Which means in effect it excludes a large degree of the value of research on MGRs from being shared as benefits. This highlights the need for monetary benefits.
- 3) Benefit sharing that arises from the 'utilisation and access' including monetary and non-monetary of these resources has to be a lynchpin of any 'fair and equitable' benefit sharing modalities