

## ACCESS TO GENETIC RESOURCES AND BENEFIT-SHARING

### UNICE STATEMENT

UNICE welcomes the setting-up of the new Issue Groups organised by the European Commission within the Trade Policy Dialogue with civil society, and would like to take this opportunity to express what European companies' concerns are in the context of entering into partnerships involving access to genetic resources and benefit-sharing.

Firstly, UNICE would like to recall its position regarding the regimes existing under the Rio Convention on Biological Diversity and the TRIPS Agreement. As they generate two different bodies of law, which exist in parallel, these texts complement each other since they do not govern the same subject matter and, therefore, must be implemented alongside each other.

In the current global context, it is time to address the issues of defining/protecting traditional knowledge and encouraging satisfactory contractual arrangements in order to avoid losses on all sides. UNICE believes that these questions have to be regarded as **major regulatory challenges** linked to identification of forthcoming development and use of intellectual property rights in the field of genetic resources and environment. In that context, UNICE shares the opinion that WIPO would be the most appropriate body to deal with such issues.

With respect to the agenda for the first meeting on "Access to genetic resources and benefit-sharing", UNICE wishes to address a series of remarks on the following points:

1. UNICE would like to stress the importance of differentiating the various topics covered with a view to ensuring clear identification of common ground on which further discussion can be built.
2. Article 15 of the Convention on Biological Diversity requires the Contracting States to regulate the conditions for obtaining this access. Given that most of the signatory countries have not fully met this obligation, action is needed on this front in order to eliminate any legislative void, which could create a climate conducive to the implementation of unfair and inequitable arrangements.

Accordingly, UNICE asks the Commission to take steps to support the drafting of best practices which specify:

- Guidelines and model agreements between the private parties seeking access to generic resources and countries providing such access. Such model agreements should ensure fairness to the parties seeking access, the countries having

sovereignty and granting access, as well as the local community involved. They should also deal with the notion of “prior informed consent”.

- Guidelines dealing with fair and equitable sharing of information on the results of research with genetic resources, and of benefits arising from the commercial use of these results.
- Clear rules designating a responsible authority granting access to genetic resources as a focal point to which companies seeking access have to address their request.

UNICE is further of the opinion that the Commission has to maintain its participation to the ongoing drafting of guidelines within the CBD.

3. In addition, the European business community recognises the importance of traditional knowledge and looks for a consensus to be reached within WIPO on what the scope and inventories should be. UNICE is of the opinion that the Commission’s involvement in this field should be as pro-active as in the drafting of the above-mentioned guidelines.

In view of the above, UNICE would like the Commission to consider drawing up recommendations on the most appropriate means of recognising and protecting traditional knowledge as subject matter for intellectual property rights. Such recommendations should aim to establish a legal framework based on an accessible set of legal instruments and a reliable mechanism relying on clearly identified granting authorities. UNICE stresses also that this work should be directly connected with what is already being developed in other fora.

In a context where there is need for multi-stakeholder cooperation, UNICE hopes that the European Commission will closely involve civil society in the drafting of these recommendations. UNICE remains committed to supporting Commission initiatives in this field.

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