

Exercise 1B. Access and benefit sharing considerations (role-playing)

Introduction

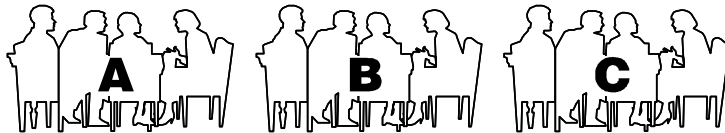
During the migrations of the pre-European era, taro plants were distributed throughout the Pacific islands using voyaging canoes with limited space, so priority was likely given to transporting as great a diversity of crops as possible, rather than a greater number of varieties for each crop. In addition, it is presumed that losses in plants would have taken place between countries, and as a result, the same genotype can be found on several islands, but under a different varietal name.

In a Pacific island country called Samuatu, a new variety of taro has been bred, using the traditional Samuatu variety 'Naololo' as one of its parents. A company (TARO LUV) in an industrialized country in the region has carried out some trials with this taro variety, using the corms to produce taro burgers. Preliminary trial results are interesting and TARO LUV is keen to explore the possibility of a commercial venture in taro burgers. Because taro burgers are vegetarian, there is a significant potential market in Australia and New Zealand. Molecular studies carried out by the university have confirmed that the genetic diversity in taro in the region is limited, and they have been unable to find any genetic differences between Naololo and the variety 'Tausala ni Samoa' from another Pacific Island country called Vanji.

Neither Vanji nor Samuatu are signatories or parties to the IT. Both are parties to the CBD but have no access legislation in place, although Vanji has submitted draft ABS legislation to the Cabinet for consideration.

Phase 1. Defining roles (10 minutes)

1. Form three groups of participants.



Group A are the representatives from Samuatu. Samuatu is insisting that any benefits should go to their national agricultural research and extension services, which run the breeding programme from which the breeding line was developed. Samuatu does not have specific ABS legislation but is Party to the CBD.

Group B are the representatives from Vanji. Vanji argues that the 'new' variety from Samuatu is the same as their variety, 'Tausala ni Samoa'. Furthermore, they argue that because many Pacific Island countries have germplasm in common, benefits should be shared in some way to benefit the Pacific countries with an interest in taro. Vanji could be a very strong competitor in the production of the taro for burgers because of their ability to grow taro on a large scale. Vanji does not have specific ABS legislation but is Party to the CBD.

Group C is an independent consultancy company that has been contracted to convene a meeting between representatives from both Samuatu and Vanji to determine who should be awarded the benefits for the use of the breeding line in a taro burger production system.

Phase 2. Preparation for the meeting (40 minutes)

2. Group A and Group B prepare to present their cases. They will have to appoint a spokesperson who will present their case. In preparing for the meeting, they should focus on the main issues—those that they feel give strength to their case. Group C also studies the case to determine what the main issues are.

Phase 3. Conducting the review (60 minutes)

In preparation, the room is arranged in a U-form to accommodate Group C sitting as Chair at the top of the U, with the other two groups on either side.

Role Play

- | 3. Group A and Group B are invited by the Chair to present their case. They each have 10 minutes. (20 minutes)
- | 4. The Chair allows Group A and Group B, separately, to discuss and prepare their defence, taking into account relevant points that they have learned from the previous presentation. (10 minutes)
- | 5. The Chair then opens discussion on the **substance** of the case and invites Group A and Group B to debate their points of view. The Chair expects that both Groups took the IT and CBD into consideration in their arguments. All participants are allowed to take part in the discussion. (10 minutes)
- | 6. At this point, the Chair invites Group A and Group B to list three lessons learned from the debate. Group C also lists three lessons. One member of the group records these lessons to present later in the plenary. (5 minutes)
- | 7. Group C confers briefly to consider their recommendation. The Chair sums up the discussion and announces Group C's decision. A few minutes are allowed for comments on the decision from the floor. (15 minutes)

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Phase 4. Lessons learned (20 minutes)

- | 8. Each group has a few minutes to present the list of lessons learned from the exercise. Distribute handout 1B.3 ('practical considerations'). Stimulate a discussion and provide feedback on the context of the presentation. (15 minutes)
9. The facilitators and subject-matter specialists invite a few volunteers to say *what the strengths and weaknesses of the exercise were, including the process of role-playing*. Then, they close the session with special remarks and feedback on the usefulness of the exercise. (5 minutes)

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Practical Considerations for Exercise 1B

(to be distributed after the exercise has been completed)

After doing this exercise, the participants are able to consider access and benefit sharing in a region where commonality of germplasm across the region is an issue in determining benefit sharing, especially when there is the possibility of commercialization. The outcome should be an agreement that satisfies all parties and, at the same time, reinforces the importance of access and benefit sharing.

General Considerations

When dealing with access or distribution of genetic resources, one has to determine what, if any, international legal instrument and corresponding national law applies. Both Vanji and Samuatu are signatories to the CBD but neither has any national legislation in place. Vanji has formulated a national ABS policy and this is being submitted to Cabinet in 2004, but it is not yet in force.

Issues to Consider

- **Limited diversity in the Pacific:** recent phylogenetic studies on taro have provided evidence that the first settlers did not bring most cultivars from the Indo-Malaysian region. The cultivars were domesticated from wild sources existing in New Guinea and areas of Melanesia. However, domestication appears to have captured only a limited portion of the genetic diversity of the wild species. The majority of cultivars are therefore most likely clones derived from a narrow genetic base. The problem of low genetic diversity in crops of the Pacific is further exacerbated by vegetative propagation of taro.
- **Commonality** between the region with regard to PGRFA means it is unlikely that monetary benefits could go directly to one country. Is there a need to consider a regional gene fund?
- **Difficulty in determining country of origin:** points to the commonality that exists within the region.
- **CBD:** although many Pacific island countries are Parties to the CBD, none of them have developed an ABS legislative framework. Vanji and Samuatu are Parties to the CBD.
- **International Treaty:** Although taro is on Annex 1 of the IT, Vanji and Samuatu have not signed or ratified the IT.

- **Networks:** What networks do these countries belong to in the region? Both Vanji and Samuatu are active members of the regional PGR network, which promotes the sharing of germplasm.

Specific Considerations

What are the options?

As neither country has ABS legislation in place, there is no framework to work within. However, they are both Parties to the CBD and are both active members of the PGR network in the Pacific, which promotes germplasm exchange and a sharing of benefits that might result from the commercial use of any germplasm.

Samuatu provided the germplasm and the breeding was also carried out in Samuatu. It does not say whether the funds supporting this project were regional or not. If funding for the breeding programme is through donor funds as part of a regional project, then the argument would be that the ‘outcome’ (this ‘new’ variety) belongs to the region. So any monetary benefits coming in should be shared by the region, because of the funding source and also because of the commonality of genetic resources. This would be in support of the PGR network policy.

If these activities were being funded through Samuatu Government money or through bilateral aid, then the argument could be made that more benefits should come to them. Some attempt would have to be made to determine the original source of the parent ‘Naololo’. Some assumptions could be made here because of the evidence related to human colonization in the Pacific—humans settled Polynesia via Melanesia—in which case Samuatu would have been settled before Vanji. There is also the possibility that the variety in Vanji (‘Tausala ni Samoa’) would not have the same taste.

Vanji would be arguing that the distinction cannot be made between the varieties, but the strength of this argument could be lessened as a result of the evidence of human colonization, indicating how Vanji came by the variety. If Vanji wishes to be involved in this and Samuatu is willing to involve Vanji, perhaps some agreement could be made as to where production will take place. Vanji has a better infrastructure in place for taro production. Benefit sharing between the two countries could occur in this way. If the market for both Australia and New Zealand is likely to be significant, then it is unlikely that Samuatu alone could satisfy the market demand.

The Pacific region would have to be cautious in their dealings with TARO LUV, in case the company wants to patent the taro burger. They might want to patent the process—how does this affect the product? This area would require careful negotiation. Of course it is also possible for the warmer areas of the industrialized country where TARO LUV is headquartered to grow taro. Admittedly, the question could be raised as to whether this particular variety would have the same taste in the industrialized country of TARO LUV as it has in Samuatu, but even so, the region should enter into some agreement with TARO LUV to ensure this does not happen ‘informally’. It would have to be a regional agreement because of the seeming commonality of this variety.