

Summary of Overheads

1.1

Review of Regional Policy Instruments, Developments and Trends : Developing Countries of Asia and the Pacific



1.2

Objectives of the Day

1. Present the objectives and schedule for the day's activities
2. Review policy frameworks in the APO region
3. Identify regional networks for genetic resources and specific crops
4. Discuss regional initiatives



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1.3

Schedule of the Day

08:30 – 09:00	Opening of the Day's Activities
09:00 – 09:30	Session 1. Review of Regional Policy Instruments, Developments and Trends: Developing Countries of Asia and the Pacific
09:30 – 10:30	Session 1A. Access and Benefit Sharing
	Tea/Coffee Break
10:45 – 12:00	Session 1A. (continued)
12:00 – 13:00	Session 1B. Access and Benefit -Sharing Considerations
	Lunch
14:00 – 15:30	Session 1B. (continued)
	Tea/Coffee Break
15:45 – 17:00	Session 1C. Accessing Genetic Resources from an <i>ex Situ</i> Genebank
17:00 – 17:30	PAPA and Evaluation of the Workshop
17:30 – 17:45	Final Remarks, Closing and Delivery of Certificates



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1.5

The Pacific Region

- A region composed of many different island countries
- Vary in size from Niue to Papua New Guinea (GD hotspot)
- Genetic resources shared between countries
- Subsistence agriculture—use of traditional landraces
- Vegetatively propagated crops
- Breeding programmes—small in number—regional and donor funded

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1.6

CBD: What is the current legal regime in the Pacific Island Region?

- Pacific Islands have a dual system of law—traditional laws and present-day laws based mostly on the English legal system
- National laws tend to prevail over local customary laws with the exception of customary land law—land issues are very important in the Pacific
- As yet, no Pacific Island country has laws on ownership of genetic resources
- Fourteen Pacific Island countries are Parties to the CBD
- Countries are developing National Biodiversity Strategies and Action Plans

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1.7

CBD: What has been implemented?

- The South Pacific Regional Environment Programme (SPREP) is responsible for assisting countries with CBD implementation - it has a MOU with the CBD Secretariat that covers institutional cooperation and exchange of information
- SPREP-WWF-SPP-FIELD project promotes access and benefit sharing provisions within the CBD with prior informed consent (PIC)
- National consultation workshops have been held in several island countries. Model ABS law was developed and distributed
- Many countries in the process of developing legislation—difficult because of common ownership within and between communities and countries



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1.8

CBD: Example of an ABS mechanism in a PIC

- Fiji—as an early signatory of the CBD—developed a basic policy framework
- Amended version mid-2004—an interim *ad hoc* regulatory framework issues export permits and country-of-origin certificates
 - Export permit issued on the basis of MOU signed by MAFF CEO
 - Complexity of MOU depends on nature of collaborative partner



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1.9

Access to germplasm from a regional perspective

- The Secretariat of the Pacific Community's Regional Germplasm Centre (SPC RGC) provides service to 22 Pacific Island countries
- The centre uses material transfer agreements (MTAs) for the distribution of germplasm
- Users can also agree voluntarily to a code of conduct regarding the legal and ethical collection of material (TaroGen and SPRIG)





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1.10

WTO: Pacific Region

- In the Pacific only Papua New Guinea, Solomon Islands and the Fiji Islands are WTO members, but there is an effort for countries to be WTO compliant
- No system is in place to protect plant varieties in the Pacific
- Few plant breeders developing new varieties, although significant variety selection is carried out in the region by farmers
- Traditional varieties—landraces—generally do not fit the criteria for plant breeders' rights (PBRs)



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1.11

International Treaty on Plant Genetic Resources for Food and Agriculture

- In the Pacific Region only the Marshall Islands have signed the Treaty
- All major Pacific crops are in Annex 1
- Lack of information
- Not given priority by policymakers
- Lack of awareness of interdependence
- Regional meeting in September 2004—awareness raising at Ministerial and Heads of Agriculture meeting




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1.12

Regional Initiatives

- **Model Law for the Protection of Traditional Knowledge and Expressions of Culture:** SPC + PIFS + UNESCO have developed a Pacific Regional Framework, which includes a Model Law that countries can adopt and/or adapt. Fiji, Palau and PNG are enacting Model Law
- **Pacific Islands Forum Countries Intellectual Property Development Plan**—aims to assist countries in their efforts to establish a regional infrastructure based on legislation, taking into account all international standards

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1.13

The Asia Region



Countries considered in this review include Bangladesh, Bhutan, Cambodia, India, Indonesia, Laos, Malaysia, Nepal, Pakistan, Philippines, Thailand, Vietnam

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1.14

CBD: Asia—What is happening at a regional level?

- The majority of countries are Parties to the CBD (Cambodia and Lao People's Democratic Republic)
- Regional level—the ASEAN Framework Agreement on Access to Biological and Genetic Resources addresses 'fair and equitable sharing of benefits'
- Provides a minimum set of requirements to be included in benefit-sharing arrangements
- Provides options and guidelines for appropriate benefit sharing
- Art. 12 provides for establishing a Common Fund for biodiversity conservation—benefits derived from commercializing resources and fees imposed by States for access to their resources

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1.15

CBD: Asia—What is happening on a national level? (1)

- At the national level, countries have adopted different approaches:
 - *India*: Parliament approved the Biological Diversity Bill (<http://www.grain.org/brl/India-biodiversityact-2002.cfm>)
 - *Thailand*: 1996 Thai Cabinet approved Thailand's Community Forest Act
 - *Philippines*: several guidelines and acts are in force relating to access and benefit sharing; the Community Intellectual Rights Protection Act (CIRPA) is an interesting development






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1.16


CBD: Asia—What is happening on a national level? (2)

- *Bhutan*: endorsed the Biodiversity Act of Bhutan
- *Bangladesh*: drafted the Biodiversity and Community Knowledge Protection Act

What conclusions can be made?



Difficult because period of implementation is limited.
Private sector and research community feel systems are too bureaucratic and impede access


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1.17

Cartagena Biosafety Protocol: Asia and the Pacific

- Many Asian and Pacific countries (27) have signed but have yet to ratify
- The UNEP-GEF global project on the development of national biosafety frameworks (NBFs) began in June 2001
- IUCN Regional Biodiversity Programme has initiative aimed at capacity building to implement the Protocol in Asia
- None of the Asian or Pacific countries are yet at a stage where they are implementing NBFs





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1.18

WTO: Asia (1)

- The majority of Asian countries are WTO members
- There is a greater need for plant variety protection because of the breeding activity in many Asian countries
- Farmers are more reliant on seeds than in the Pacific region
- UPOV-styled plant variety protection laws are in force or being made in Bangladesh, China, Indonesia, Korea, Malaysia, Pakistan, Philippines, Taiwan, Thailand and Vietnam

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1.19

The Status of Plant Variety Protection Acts in Asian countries

Country	Name of Act	Year	Status
Bangladesh	Plant Variety Act	1998	Draft
India	Plant Variety Protection and Farmers' Rights Act	2001	In force
Malaysia	Protection of Plant Varieties Act	1999	Draft
Pakistan	Plant Breeders' Rights Ordinance	2000	Draft
Philippines	Plant Variety Protection Act	2002	Enacted
	Implementing Rules and Regulations of the PPPVA of 2002	2003	In force
Sri Lanka	Protection of New Plant Varieties	2001	Draft
Thailand	Plant Variety Protection Act	1999	In force but not implemented



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WTO: Asia (2)

- India has fulfilled its obligation under TRIPs concerning plant varieties with the Farmers' Rights Act, 2001
- India has also enacted the Patent Second Amendment Act (2002) to allow patents on microbiological, biochemical and biotechnological processes
- India submitted a paper to the TRIPs Council requesting that the Council amend the agreement so that patent applicants
 - (a) disclose the source of origin of the biological resource and associated traditional knowledge
 - (b) provide evidence of prior informed consent and benefit sharing



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1.21

WTO: Asia (3)

- **Malaysia:** Protection of New Plant Varieties Act in force in 2004—protection for breeders but also recognizes contribution made by farmers
- **Thailand:** Plant Varieties Protection Act, 1999, yet to be implemented. Section of the Act addressed the protection of local domestic plant varieties—enables communities to register a variety
- **Philippines:** Plant Variety Protection Act is in force—aimed at protecting and securing the exclusive rights of breeders. A provision exists acknowledging the traditional right of farmers in their use of seeds
- **US Free Trade Agreements (FTAs):** Chile Agreement, which requires patenting for plant varieties within four years...



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1.22

The International Treaty and Asia

- Numerous Asian countries, especially India, Malaysia and Philippines, were very active in negotiations on Treaty text
- Seven countries have ratified (as of August 2004) and one has signed (Thailand)
- Treaty provides provision for Farmers' Rights. In Asia, where over two-thirds of the population are small farmers or live in farming communities, this is a significant provision



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1.23

Regional PGR Networks in Asia and the Pacific

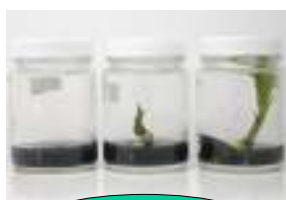
Network	Date established	Membership
Regional Network for Conservation and Utilization of Plant Genetic Resources in East Asia (EA-PGR)	1991	China, Japan, Rep of Korea, Dem People's Rep of Korea, Mongolia
Regional Cooperation in Southeast Asia for Plant Genetic Resources (RECSEA-PGR)	1993	Indonesia, Malaysia, the Philippines, Papua New Guinea, Thailand, Singapore, Vietnam
The South Asia Network on Plant Genetic Resources (SANPGR)	1990	Bangladesh, Bhutan, India, Nepal, Maldives, Sri Lanka
The Pacific Agricultural Plant Genetic Resources Network (PAPGREN)	2001	Cook Islands, Fiji, Kiribati, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu



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1.24

Crop-Specific Networks



COGENT



BAPNET



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Other Crop-Specific Networks in the Asia-Pacific Region

Network	Member Countries
International Buckwheat Research Association. (IBRA)	China, Japan, India, Nepal and the Republic of Korea
Asia Pacific Forest Genetic Resources Programme (APFORGEN)	<i>In collaboration with the Asia Pacific Association of Forest Research Institutions (APAFRI)</i>
International Network for Genetic Evaluation of Rice (INGER)	Asia and some linkages to NARS in Africa, South America and the Caribbean
South Pacific Regional Initiative on Forest Genetic Resources (SPRIG) Phase 2	Cook Islands, Kiribati, Nauru, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu and Samoa
Lathyrus Genetic Resources Network (LGRN)	Bangladesh, India, Nepal, Pakistan, Syria, Jordan, Ethiopia, China, Canada and the European Union
Safflower Network	<i>Being developed in cooperation with the International Safflower Germplasm Advisory Committee (ISGAC)</i>
Asian Network on Sweet Potato Genetic Resources (ANSWER)	China, Thailand, Malaysia, Indonesia, Japan and the Philippines

