Reflecting on the Convention on Biological Diversity (CBD) and Its Implications[1]

(summary of presentation)

I. Relevance to GR professionals

The Convention on Biological Diversity (CBD) is an ambitious attempt to integrate previously distinct policy goals of environmental sustainability, promotion of trade, development. It entered into force in 1993 and as of December 2004 has 188 Contracting Parties. It recognizes the pervasive importance and distribution of biodiversity and requires protection of all biodiversity in all types of ecosystems and habitats. The CBD applies to all types of genetic resources (microbial, plant, animal, aquatic and marine), both wild and domesticated. Nevertheless, the impetus for the CBD was from an environmental constituency, and the negotiators by and large came from national Ministries of Environment with little or no focus on the PGRFA. At the conclusion of the treaty the negotiators passed a resolution, Resolution 3 of the Nairobi Conference of 22 May 1992, calling for certain outstanding issues related to PGRFA to be addressed within the FAO Global System.

One of the outstanding issues was the status of genetic resources held in *ex situ* collections prior to the Convention's entry into force. As will be discussed in detail in section II below, the CBD establishes international legal principles for access to genetic resources held in both *in situ* and *ex situ* conditions. The CBD, however, only applies to genetic resources held in *ex situ* conditions that were acquired after its entry into force and therefore does not cover pre-CBD collections. And, as noted in Session 5 it no longer effectively applies to post-entry into force of collections of the International Treaty on Plant Genetic Resoruces for Food and Agriculture (IT) Annex I crops. The other outstanding issue identified in Resolution 3 is the realization of Farmers' Rights. The revision of the International Undertaking was in part an effort to address these outstanding issues. The IT clarifies how access and benefit sharing to Annex I crops will be handled and thus the crops listed in Annex I represent the large majority of *ex situ* accessions. The IT does not, however, explicitly address the status of *ex situ* collections acquired prior to the CBD's entry into force that are not part of Annex I. The solution to how to address Farmers' Rights in the IT was to leave their implementation to the national level.

The IT and national law implementing it will now be the main entry point for a PGRFA manager concerned about legal requirements stemming from international obligations. Nevertheless, PGRFA not on the list will still fall under the Access and Benefit-Sharing (ABS) provisions of the CBD and it is therefore important for a GR professional to be aware of its requirements and orientation. National policy-makers should also be aware that the IT list can be amended to include additional crops or forages so it may be wise to retain flexibility in national ABS laws to accommodate these future changes.

Acknowledgements: Editors for the first edition were Susan Bragdon and Cary Fowler. Editor for the second edition was Manuel Ruiz.

[1] The full text of the CBD is provided in the Reference Materials section of the module.

Because the ABS provisions are the most relevant to the work of a GR professional, this chapter will begin by focusing on those requirements and how they have been implemented over the last several years. With the conclusion of the IT, in the CBD it is most important for the GR professional to understand its ABS principles and requirements and the relevant national implementation legislation. Nevertheless, because they may have relevance after discussing ABS, the chapter will briefly discuss other articles of relevance and some of the recent activities undertaken by the Parties for implementation of them.

II. Article 15: Access to genetic resources (and related provisions)

A. Relevant provisions

When dealing with access or distribution of genetic resources, the GR professional must first determine what, if any, international legal instrument and corresponding national law applies. If the resources in question are included in the IT's Annex I and are under the management and control of a Contracting Party, then they will be subject to the access and benefit-sharing provisions of the IT (more information about the IT is given in Session 5). Access to materials not included in Annex I of the IT will be governed by the general principles of the CBD and, more particularly, by national laws that implement the CBD.

In addition, GR professionals will need to be aware of any crop or other networks that the country may have joined and any access and exchange regulations established by the network agreement.

Underpinning the CBD and at the heart of some of the most contentious debates among parties is the recognition of States' sovereign rights to regulate access to genetic resources located within their borders.[2] Notwithstanding this recognition, each Contracting Party 'shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention' (Article 15.2).

According to Article 15 paras. 4 and 5 of the CBD, access, where granted, shall be on mutually agreed terms and subject to prior informed consent (PIC) of the Contracting Party providing genetic resources.[3] While the CBD emphasizes national sovereignty, it does not actually require states to implement bilaterally oriented regulatory regimes, nor does it preclude parties from establishing or entering into regional or crop networks or a larger multilateral system of regulating access. Hence, governments, exercising their national sovereignty and under the auspices of the FAO Commission, established a multilateral system in the IT. The multilateral system (MLS) created by the IT is entirely consistent with the principles of national sovereignty, prior informed consent and mutually agreed terms. The IT states that it is consistent with the CBD and the Parties to the CBD repeatedly noted their support for this process.

---

[2] Under the framework established by the International Undertaking on Plant Genetic Resources (IU) (1983), plant genetic resources for food and agriculture (PGRFA) were deemed a 'common heritage of mankind' and subject to a system of free exchange among the parties to the IU ('Plant genetic resources are a common heritage of mankind to be preserved, and to be freely available for use, for the benefit of present and future generations', Preamble). The CBD has substantially changed this approach, as examined below.

[3] For the purpose of the Convention, the 'genetic resources being provided by a Contracting Party' are only those that are provided by Contracting Parties that are countries of origin of such resources or by the parties that have acquired the genetic resources in accordance with the Convention (Article 15.3).

GR managers will want to ensure that the terms do not conflict with their mission as a GR professional, for example, ensuring the terms do not unduly restrict subsequent distribution to their constituents, or, in fact, to non nationals in ways that will prompt them to deny access to materials that the genebank might need in the future. Many governments have passed or are considering ABS legislation. Before turning to implementation trends, there are several other provisions on or related to access worth noting.

Paragraphs 6 and 7 of Article 15 provide that each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties. Most importantly, each Contracting Party is bound to take legislative, administrative or policy measures with the aim of *sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization* of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms (Article 1, paras. 6 and 7).

Article 8(j) of the CBD requires that Parties 'shall, as far as possible and as appropriate' and 'subject to [their] national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of benefits arising from the utilization of such knowledge, innovations and practices'. Article 10 also contains provisions related to indigenous and local communities. Article 10(c) requires Parties to protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements, and (d) to support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced. Regulating access is one mechanism through which these provisions can be implemented. Some countries that have developed access legislation have, for example, provided for the PIC of relevant indigenous and local communities in order for an access permit to be granted. Genetic resources professionals must be careful in collecting and using resources associated with indigenous and local communities. First, GR professionals must familiarize themselves with regional or national policies, laws or regulations applicable in their country on the collecting, use and/or management of the genetic resources associated with indigenous and local communities and/or related knowledge, innovations and practices. Even in the absence of national regulations, GR professionals should proceed carefully by providing full, relevant information to indigenous and local communities involved or affected and by taking the appropriate steps to see that permission is obtained prior to initiating any activity.

B. The Bonn Guidelines

At its fifth meeting in May 2000, the Conference of the Parties (COP) established the Ad Hoc Working Group on Access and Benefit Sharing. In October 2001, the Working Group created the draft 'Bonn Guidelines' for state parties developing national legislation to regulate access to genetic resources and benefit sharing. The Bonn Guidelines were adopted by the COP VI in April 2002. Though they are not binding, they still have a great deal of potential to influence how countries develop their access laws. Of relevance to indigenous and local communities, the Bonn Guidelines recommend that 'the prior informed consent of indigenous and local communities … should be obtained, in accordance with their traditional practices, national

access policies and subject to domestic laws' when parties seek access to their genetic resources and associated knowledge.[4] This is significant because the CBD does not explicitly state that it is necessary to get the PIC of constituent communities.

At its sixth meeting, in discussing access to genetic resources, the COP agreed to encourage disclosure of the country of origin and of traditional knowledge in IPR applications. There were long discussions on whether or not the scope of the Guidelines would include derivatives and products. Ultimately, the COP agreed to include them in the indicative list of mutually agreed terms (MATs) and to remove them from the provision on scope, adding a reference to benefits arising from the commercial and other utilization of genetic resources. The COP decided to reconvene the Working Group on ABS to work on use of terms, other approaches, measures to support compliance with prior informed consent (PIC) and MATs, and capacity-building needs. The Bonn Guidelines were adopted and contain sections on:

1) *general provisions*, including key features, use of terms, scope, relationship with relevant international regimes and objectives;

2) *roles and responsibilities in ABS*, including: Contracting Parties that are countries of origin of genetic resources, or other Parties that acquired resources in accordance with the Convention; users, in the implementation of MATs; providers; Contracting Parties having users in their jurisdiction and measures to support compliance with PIC and MATs; national focal points; and national competent authorities;

3) *participation of stakeholders*;

4) *steps in the ABS process*, including: an overall strategy; identification of steps; PIC, containing competent authorities, timing and deadlines, specification of use, procedures for obtaining PIC and process; MATs, containing basic requirements and an indicative list of typical MATs; and benefit sharing, mentioning types, timing and distribution of benefits and mechanisms for benefit sharing, and

5) *other provisions*, including incentives, accountability in implementing ABS arrangements, national monitoring and reporting, means for verification, dispute settlement and remedies.

Appendix I of the Guidelines suggests elements for material transfer agreements, while Appendix II outlines monetary and non monetary benefits.

With regard to intellectual property rights and access, in the same decision adopting the Guidelines, the COP also invited: Governments to encourage disclosure of the country of origin of genetic resources or traditional knowledge in IPR applications, where the subject matter of the application concerns or makes use of either of them in its development. The COP also requested information gathering and analysis on the role of customary laws and practices, and the feasibility of an internationally recognized certificate of origin as evidence of PIC and MAT. It also requested Parties to send the CBD Secretariat information on national mechanisms for obtaining PIC of indigenous and local communities. To help Parties in understanding their IPR options in ABS arrangements, the COP invited WIPO to prepare a

[4] Article 29 of the 'Bonn Guidelines,' UNEP/CBD/COP/6/6, page 20. Other relevant sections of the Bonn Guidelines, as far as traditional knowledge is concerned, are 17, 24(d) 42(g).

technical study on methods for requiring disclosure of genetic resources, the country of origin, traditional knowledge and its source, and evidence of PIC.

The Guideline objectives include contributing to poverty alleviation and supporting human food security. This will be important if countries use the guidelines as part of the process of developing a consistent ABS strategy. The Guidelines include language in relationship to other instruments saying that the guidelines' applications should be supportive of relevant international agreements and without prejudice to ABS provisions of the IU (now IT).

Capacity-building for ABS also received a lot of attention and draft elements were agreed upon. The Working Group also called upon the Secretariat to convene an open-ended intersessional working group to finalize these elements. The date of this meeting has not been set yet. The capacity-building component may be a good opportunity for countries and institutions to build the skills necessary to develop ABS strategies that link the obligations and objectives stemming from the IT and the CBD.

The Conference of the Parties has also requested all Parties to identify a national focal point for ABS. The list of focal points is carried on the CBD web page and is available in hard copy from the Secretariat. It will be important for these focal points and others in the position of making ABS policy and decisions to understand the differences between PGRFA and other biodiversity.

C. National implementation

The provisions of the CBD relating to access have been implemented at the national level through three different types of regulations[5]:

- Environmental laws: they generally charge a competent national authority to examine the issue and provide specific guidelines or regulations in the future. These laws are only 'enabling' in nature (e.g. the laws adopted in Australia and some African countries[6]);
- Sustainable development, nature conservation, national parks, sectoral and biodiversity laws: this kind of law generally contain access provisions more detailed than the laws of the first type.[7] Most of these laws establish the principles of mutually agreed terms and prior informed consent for access, in some cases in great detail (e.g. Biodiversity Law of Costa Rica, Law No. 7788 of 1998);
- Access regulations: they specifically aim at establishing conditions on access for genetic resources. Few regulations in force fall within this category; e.g., the Philippines Executive Order 247 (1995), Decision 391 of the Andean Community

---

[5] The following categorization is partially based on Lyle Glowka, 1999 (Towards a certification for bioprospecting activities. Study commissioned by the State Secretariat for Economic Affairs).

[6] For instance, the National Environment Management Act, 1994 (Law No. 13/94) of **Gambia** empowers the competent national authority to prohibit or restrict any trade or traffic in any component of biological diversity (Article 32.g). It contains a specific provision (Article 35) on access to genetic resources, according to which 'the genetic resources of the Gambia shall constitute an essential part of the natural wealth of resources of the people of the Gambia'. A Council created by the law may make regulations and prescribe guidelines regarding access to the genetic resources of The Gambia, including (1) measures regulating the export of germplasm; (2) measures for sharing of benefits derived from germplasm originating from The Gambia, and (3) fees to be paid for access to germplasm'.

[7] For example, in **Cameroon**, law 94/01 of 20.1.94 sets forth rules for an integrated management, conservation and sustainable utilization of forests, fauna and fisheries. It provides that genetic resources of Cameroon belong to the State. Nobody is allowed to exploit them for scientific, commercial or cultural purposes without authorization. The financial or economic benefits resulting from their utilization are subject to a royalty to be paid to the State, at a rate and upon modalities of payment to be determined by the Minister of Finances, on the basis of proposals by the competent ministers (Article 12).

(1996), including the implementing regulations issued in some of the Andean countries, and Brazilian Provisional Measure No. 2.126 (26 April 2001).

A common feature of access regulations is their broad scope: they apply to genetic resources in all sectors of biodiversity, whether maintained in *in situ* or *ex situ* conditions. Such regulations and those dealing more generally with genetic resources, such as the Biodiversity Law of Costa Rica, normally reaffirm the principle of national sovereignty, establish prior informed consent procedures and specify the conditions for the granting of permits. Among such provisions the following obligations are generally established on the party having access:

- full information about new products and/or knowledge developed from accessed materials
- priority access by the providing country to such new products and/or knowledge
- a share in financial and other benefits derived from the commercial exploitation of accessed materials
- obligatory deposit of a specimen of each accession
- transfer to third parties only after authorization
- involvement of local scientists in collecting/research.

Though there is little evidence about the implications of the access regulations enacted so far on the access to and research on genetic resources, concerns have arisen about their possible negative impact on collecting and research activities, including by the CGIAR international centres. In the case of the Philippines, for instance, the local research community has strongly criticized the access regime as 'too tedious, too costly, too time consuming, and too broad, encompassing activities that do not have commercial prospects and thus frustrating efforts to better understand and conserve the country's biodiversity'.[8]

The implementation of the Andean Community regulations has also raised serious concerns. No distinction is made according to the type of biodiversity involved, the genetic resources held *in situ* and in *ex situ* conditions are subject to the same substantive provisions, compliance with the regulation is burdensome, particularly for small companies and for research institutions, and the regulations retroactively apply to any collected materials.[9]

III. Article 16: Techology transfer

A. Relevant provisions

Article 16 concerns technology transfer and is the only article that explicitly mentions intellectual property rights. It is complex and ambiguous and full of internal cross-references. Because of its ambiguity, Article 16, perhaps more than others, can only really begin to take shape through the experience established through implementation. Perhaps the most relevance to the GR professional will come from how these provisions in light of the CBD objectives can be implemented at the national level in harmony with the TRIPS Agreement (see Chapter 6).

---

[8] The research community has also criticized the need to obtain the informed consent of communities in whose territories research will be conducted, as 'unrealistic and costly'. That requirement, however, finds strong support from other stakeholders.

[9] According to its transitional provisions, Decision 391 applies to those persons and institutions 'that possess genetic resources for which Member States are countries of origin' and obliges them to request access to the National Competent Authority. Moreover, contracts already entered into between State organizations and third parties which are not in conformity with the Decision may be renegotiated or not renewed, as appropriate. These rules apply to any '*ex situ* conservation centre'.

Article 16 addresses access to and transfer of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and are subject to intellectual property rights. The article aims at striking a balance between the need to secure access and technology transfer on the one hand, and the respect of intellectual property rights, on the other. In such a case, the access and transfer shall be provided on terms which recognize and are consistent with the 'adequate and effective protection' of intellectual property rights (Article 16.2). However, the Contracting Parties shall cooperate 'subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives' (article 16.5).

In addition, each Contracting Party undertakes to take legislative, administrative or policy measures, as appropriate, with regard to intellectual property, the handling of biotechnology and the distribution of its benefits, with the aim that:

- Contracting Parties, in particular, those that are developing countries, which supply genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, including technology protected by patents and other intellectual property rights, where necessary, through the provisions of Articles 20 and 21 and in accordance with international law and consistent with paragraphs 4 and 5 of Article 16 (Article 16.3)
- the private sector facilitates access to, joint development and transfer of technology referred to in Article 16.1 for the benefit of both governmental institutions and the private sector of developing countries and in this regard shall abide by the obligations included in paragraphs 2 and 3 of Article 16 (Article 16.4)
- an effective participation in biotechnological research activities is ensured to those Contracting Parties, especially developing countries, which provide the genetic resources for such research (Article 19.1)
- It is promoted, and advanced priority access is given on a fair and equitable basis by Contracting Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Contracting Parties. Such access shall be on mutually agreed terms (Article 19.2).

Finally, each Contracting Party shall, directly or by requiring any natural or legal person under its jurisdiction providing any living modified organism resulting from biotechnology, provide any available information about the use and safety regulations required by that Contracting Party in handling such organisms, as well as any available information on the potential adverse impact of the specific organisms concerned to the Contracting Party to which those organisms are to be introduced (Article 16.4).

B. Implementation issues of note

In relation to intellectual property rights, the Bonn Guidelines adopted at the 7th meeting of the Conference of the Parties to the CBD:

- Invite Governments to encourage disclosure of the country of origin of genetic resources or traditional knowledge in IPR applications, where the subject matter of the application concerns or makes use of either of them in its development
- Request information gathering and analysis on the role of customary laws and practices, and the feasibility of an internationally recognized certificate of origin as evidence of PIC and MTA
- Request information on national mechanisms for obtaining PIC of indigenous and local communities

- Invite WIPO to prepare a technical study on methods for requiring disclosure of genetic resources, the country of origin, traditional knowledge and its source, and evidence of PIC
- Encourage participation of indigenous and local communities.

IV. Article 9: *Ex situ* conservation

In Article 9 the CBD addresses the issue of *ex situ* conservation 'predominantly for the purpose of complementing *in situ* measures', requiring that *ex situ* conservation be preferably undertaken in the country of origin of the genetic resources, including measures for the recovery and rehabilitation of threatened species and for their reintroduction into their natural habitats under appropriate conditions.

In terms of collecting, paragraph (d) requires Parties to regulate and manage the collecting of resources from natural habitats for *ex situ* conservation purposes so as to not threaten 'ecosystems and *in situ* populations of species.' GR professionals should note that guidelines have been prepared for the collecting of plants and animals at both the international level and within professional societies. One example is the FAO Code of Conduct for Plant Germplasm Collection and Transfer.

V. Agrobiodiversity

A. Programme of work on agrobiodiversity

The COP has repeatedly noted the importance and distinct characteristics of agrobiodiversity. Consequently, its decisions[10]have supported the revision of the IU to bring it into harmony with the CBD and have led to the establishment of a programme of work specifically addressing agrobiodiversity. The overall aim of the programme of work is to promote the objectives of the Convention in the area of agricultural biodiversity. The programme of work aims to:

- support the development of national strategies concerning agrobiodiversity and to promote their integration in sectoral and cross-sectoral plans and policies
- build upon existing plans of actions that have been agreed by countries such as the GPA
- ensure harmony with other relevant programmes of work under the CBD
- to promote synergy and coordination among relevant programmes of other international organizations.

The programme of work has four main elements. The first is an assessment operational objective which aims to provide a comprehensive analysis of the status and trends of the world's agrobiodiversity and of their underlying causes, as well as local knowledge and its management. The second is to 'identify management practices, technologies and policies that promote the positive and mitigate the negative impacts of agriculture on biodiversity, and enhance productivity and capacity to sustain livelihoods by expanding knowledge, understanding and awareness of the multiple goods and services provided by the different levels and functions of agricultural biodiversity.'[11] The third element objective is to strengthen the capacity of farmers, indigenous and local communities to manage sustainable agricultural biodiversity so as to increase their benefits and to promote awareness and responsible action.

---

[10] For example, *see,*III/11; IV/6.
[11] DecisionV/5; http://www.biodiv.org/decisions/?m=cop-05, page 7.

The fourth element is to support the institutional framework and policy and planning mechanisms for the mainstreaming of agricultural biodiversity into agricultural strategies and action plans and into wider strategies and plans for biodiversity in general.

The COP has also launched an International Initiative for the Conservation and Sustainable Use of Pollinators to promote coordinated action worldwide to:

- monitor pollinator decline
- address the lack of taxonomic information on pollinators
- assess the economic value of pollination and the economic impact of pollinator decline
- promote the conservation and restoration and sustainable use of pollinator diversity in agriculture and related ecosystems.

B. National implementation

Most of the countries that have submitted national reports to the COP have included references to agricultural biodiversity. Of the 111 national reports thus far submitted, 58 provide fairly significant coverage of agriculture and/or agricultural biodiversity.[12] The scope of coverage is variable, however, with different countries focusing on different issues. Very few countries describe comprehensive policies, programmes or strategies for agricultural biodiversity, though a number do indicate they plan to develop these.[13] In addition, the Global Environment Facility (GEF) has established an Operational Programme and Guidelines on agrobiodiversity which explicitly notes the possibility of funding for this kind of specific strategy or plan.

VI. Article 8: In situ conservation

A. Relevant provisions

Article 8 of the CBD requires each Contracting Party to implement several measures, in order to ensure the *in situ* conservation of genetic resources (see Box 5.1), but leaves a great degree of discretion to each Party. This article provides the main set of CBD obligations to conserve biological diversity and recognizes *in situ* conservation as the primary approach for biodiversity conservation. The article addresses the conservation of ecosystems, wild species and genetic diversity. It also covers the *in situ* conservation of domesticated plant varieties and animal breeds. As discussed in section II above, Article 8(j) addresses indigenous and local communities.

B. Implementation issues of note

The Global Strategy for Plant Conservation was adopted through COP Decision VI/9 (The Hague). The Strategy aims to provide a framework to facilitate harmony between existing initiatives aimed at plant conservation, to identify gaps where new initiatives are required and to promote mobilization of the necessary resources. A number of objectives have been identified, including halting the loss of plant diversity, harmonizing efforts regarding initiatives for plant conservation, and serving as a tool to implement the ecosystem approach, among other things.

---

[12] http://www.biodiv.org/programmes/areas/agro/reports.asp.

[13] *Ibid.* See also UNEP/CBD/SBSTTA/5/INF/10.

Box 5.1. *In situ* conservation (Article 8)

Each Contracting Party shall, as far as possible and as appropriate:

(a) Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity;

(b) Develop, where necessary, guidelines for the selection, establishment and management of protected areas or areas where special measures need to be taken to conserve biological diversity;

(c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;

(d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;

(e) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas;

(f) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, *inter alia*, through the development and implementation of plans or other management strategies;

(g) Establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health;
(h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;
(i) Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components;
(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;
(k) Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations;
(l) Where a significant adverse effect on biological diversity has been determined pursuant to Article 7, regulate or manage the relevant processes and categories of activities, and
(m) Cooperate in providing financial and other support for *in situ* conservation outlined in subparagraphs (a) to (l) above, particularly to developing countries.

During COP VII (Kuala Lumpur), Parties further expressed their commitment to plant conservation and adopted Decision VII/10. This Decision specifies the need to invite the World Conservation Monitoring Centre to monitor the implementation of the Strategy, encourage Parties to nominate a focal point for the Strategy, integrate the targets of the Strategy into thematic and cross-cutting programmes of the CBD, liaise with the CITES Convention and find ways to cooperate, among other things.

VII. Article 10: Sustainable use of components of biological diversity

The sustainable use of biological diversity is one of the CBD's primary objectives. Article 10 is the focus of the CBD's sustainable-use requirements—although, as Table 1 illustrates (see Chapter 1), Article 8, particularly subparagraphs (c) and (i), also emphasizes sustainable use. Article 10 (b) is the key provision and requires parties to adopt measures related to the use of biological resources to avoid or minimize adverse impact on biological diversity.

VIII. Ongoing work of the CBD

GR professionals may wish to note that the CBD provides for periodic meetings of the Parties to monitor and make decisions regarding implementation and these may have relevance to PGRFA. In addition, the CBD provides for a set of institutions to support the elaboration of its obligations. In addition to the Secretariat and the Conference of the Parties, there is also a Subsidiary Body on Scientific, Technical and Technological Advice, a Clearing-house Mechanism for Scientific and Technical Cooperation and a financial mechanism operated by the Global Environment Facility.

Since the CBD entered into force in 1993, its implementation has proceeded slowly. In the CBD, governments have found it difficult to bring together the many disciplines and policy measures needed to achieve the Convention's objectives. Different governments select different priorities from among the broad array of possible initiatives within the scope of the

CBD. Only a few specific national regulations have been enacted so far to implement the provisions of the CBD. However, many countries are considering legislation on the matter.[14]

[14] For instance, the Organisation of African Unity has adopted a draft model legislation covering access to genetic resources which is under consideration in some African countries. See also the draft Indian Biodiversity law.