

## *Aspirations and realities of the Biodiversity Convention*

*Fourteen years after coming into force, the Convention on Biological Diversity (CBD) is still inadequately implemented. In particular, the issue of fair and equitable benefit-sharing in the utilisation of genetic resources is very often simply ignored.*

It appeared to be a huge step forwards when the Convention on Biological Diversity (CBD) entered into force on 29 December 1993. It laid down for people everywhere an understanding of the diversity of life that goes far beyond the concept of species diversity. According to the new definition it is not only the number of species that is crucial; the genetic diversity within a species is as important to biological diversity as the variety of biotic communities and ecosystems. And since biological communities and ecosystems involve processes and cycles of materials, the dimension of time as well as of space becomes relevant. Advances in research have over the years given rise to much discussion of how a “species” can be defined; even the much more modern concept of biological diversity is already provoking controversy in scientific circles. For the purposes of the Convention it nevertheless represents a useful attempt to describe and systematise the complexity of life on Earth.

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### *The three goals of the Convention*

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While its definitional function is to be welcomed, the CBD serves primarily to create a regulatory framework which commits the nations to using

the world’s living resources in ways that are socially, economically and ecologically sustainable. It should be noted that it is not entitled the “Convention for the Conservation of Biological Diversity”, because conservation is only one of its three goals. The other two are the sustainable use of the components of biological diversity and the “fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies”.

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### *ABS: the eternal fight for perfection vs. implementation?*

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While the general validity of the first two goals is in the main undisputed, implementation and attainment of the third goal give rise to seemingly endless debate. More than almost any other issue, the struggle for a global regime of “access to genetic resources and fair and equitable sharing of the benefits arising out of their utilisation” – in brief, “access and benefit-sharing” (ABS) – reveals a deep divide between the industrialised nations and developing countries. Implementation of this goal would for example mean that pharmaceutical and food companies in the “developed” world could no longer take genetic resources from places such as the tropical rainforests and use them to create marketable products without giving anything in return. They would be required to compensate the countries of origin appropriately and to grant them an

equitable share in the proceeds of commercial utilisation. In addition they would have to enable the less developed countries, through technology transfer, to use their genetic resources to develop market-ready products themselves. The economically and politically explosive implications of this are obvious; it is a major reason why the USA has so far failed to ratify the CBD – it is the only large nation that has not ratified the Convention.

Moreover, the ABS provisions of the CBD contrast sharply with the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs) drawn up by the powerful World Trade Organization (WTO). The most important conflicts arise from the fact that:

- the CBD recognises the rights of communities (such as particular ethnic or local groups), while TRIPs acknowledges only those of individuals or legal persons, and



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- the CBD envisages a legal status for traditional knowledge and practices (e.g. in connection with medicinal plants); under TRIPs this status is accorded only, via the patent system, to innovative, intellectual developments, and private individual rights to biological resources are covered by the same system.

Under the CBD the “Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilisation” were adopted in 2002 as a guide to implementation of an ABS regime. Nevertheless, ABS has from the outset been the subject of particularly heated and protracted debates at the Conference of the Parties and it continues to be the focus of controversy. Even among states that officially support such a regime under the CBD one can suspect a hidden agenda; under the guise of striving for an absolutely perfect system (which is in any case unachievable), implementation of the Convention is continually postponed. So it is that after eight Conferences of the Parties and numerous meetings of the working group set up by the COP, a functioning body of rules is still a remote prospect. It may be objected that the issue is a particularly complex and controversial one. Let us therefore look at the aspirations and the realities of the CBD by considering what is

*Without a broad genetic diversity we cannot improve the production and quality of rice varieties. Rice is staple food for over 2 billion people.*

clearly a much simpler issue, the Protected Area Working Programme.

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### *Simple issues – easy solutions? Not in CBD!*

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The CBD expressly acknowledges the very great importance of protected areas. These areas are, however, affected by major deficits which include poor networking, varying standards, a lack of quality criteria and inadequate monitoring. In consequence the text of the Convention calls upon parties

- to “establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity” and
- to “develop, where necessary, guidelines for the selection, establishment and management” of such areas.

Nevertheless, a full 12 years elapsed before a working plan on this issue was eventually adopted at the 7<sup>th</sup> Conference of the Parties in Kuala Lumpur/Malaysia in 2004. The plan calls for the “establishment and maintenance by 2010 for terrestrial and by 2012 for marine areas of comprehensive, effectively managed, and ecologically representative national and regional systems of protected areas”. In addition, all protected areas are “to have effective management in existence by 2012, using participatory and science-based site planning processes that incorporate clear biodiversity objectives”. The final stage is due to be reached in 2015, when all protected areas and protected systems will be networked and integrated into the wider landscape using the ecosystem approach. One can optimistically state that the dead-

*The biological and agricultural diversity of our environment is crucial for sustaining human livelihoods.*



Photo: Jörg Böhring

line for achieving these targets is still some years away. Experience to date, though, provides plentiful grounds for scepticism – particularly in view of the sorry story, which has now gone on for almost four years, of the follow-up to these resolutions. It is a saga of disappointing reports from the states parties, inadequate implementation and sheer disregard of the stated deadlines, despite the fact that these are targets that the CBD parties have set for themselves. The issue is explored in more detail elsewhere (Niekisch in *Natur und Landschaft 2008*, in press).

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### *Will the CBD ever get going?*

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On the other hand, there have in recent months been hopeful signs of movement in the CBD with regard to the Programme of Work on Protected Areas. The CBD Secretariat initiated a number of workshops, which have noticeably improved the capabilities of staff working in protected areas. In addition a set of materials (tool kit) has been developed which enables the training to reach a wider audience. There has been progress, too, in matters of finance. This is particularly satisfying in view of the previously notorious bottlenecks in the CBD’s work and the continually poor functioning of the Global Environment Facility (GEF) – which was specially established to finance implementation of the Biodiversity Convention. In the run-up to COP 9 some governments have made additional funds available for biodiversity conservation and protected areas. It remains to be seen whether these funds will be efficiently managed, whether the correct priorities will be set, and in particular whether the future of



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## Zusammenfassung

Zentraler und am meisten umstrittener Bestandteil der Konvention über Biologische Vielfalt (CBD) sind die Regelungen über den Zugang zu genetischen Ressourcen und den gerechten Vorteilsausgleich (ABS). Hier offenbaren sich in besonderer Schärfe die Unterschiede in den Auffassungen zwischen Industrienationen und Entwicklungsländern. Zudem steht die CBD hier im Gegensatz zu den Regelungen der World Trade Organization. Ein globales ABS-Regime ist bis heute nicht in Sicht. Doch auch bei weniger komplexen Anliegen der CBD, wie dem Arbeitsprogramm zu Schutzgebieten, ist zu befürchten, dass die von den Vertragsstaaten selbst gesetzten Ziele nicht eingehalten werden. Die Umsetzung der

Beschlüsse der CBD verläuft insgesamt unbefriedigend schleppend, doch bildet die CBD ein einzigartiges Forum ohne das „good global governance“ international kaum voranzubringen wäre. Lokale Initiativen zeigen bereits Wege auf, wie Nachhaltigkeit lokal gelebt werden kann.

## Resumen

El componente central y más controvertido del Convenio sobre la Diversidad Biológica (CDB) es el conjunto de normas para el acceso a los recursos genéticos y una justa distribución de beneficios (ABS). Aquí se revelan con especial crudeza las diferencias entre los puntos de vista de las naciones industrializadas y los países en desarrollo. Además, el CDB contraviene en este sentido las dis-

posiciones de la Organización Mundial de Comercio. Hasta el día de hoy no se vislumbra aún un sistema global de ABS. Pero también cuando se trata de metas menos complejas del CDB, como en el caso del programa de trabajo para zonas protegidas, cabe temer que los estados signatarios no cumplan con los objetivos fijados por ellos mismos. La implementación de las decisiones del CDB evoluciona en términos generales de manera insatisfactoria debido a su lentitud. Aun así, el CDB constituye un foro único, sin el cual el “buen gobierno global” a nivel internacional apenas tendría posibilidades de funcionar. Las iniciativas locales representan ya ciertas opciones que permiten vivir la sostenibilidad a nivel local.

resource conservation projects can be assured in the long-term, as it needs to be. But things are moving in the right direction. One wonders whether, at least in this area and among some states parties, the previously abysmal implementation of the CBD has at last led to the realisation that things cannot continue in this way.

### *New solutions: is the way the goal?*

However, the impact of the CBD cannot be assessed on the basis of its sluggish negotiations and objectively inadequate implementation alone. The sessions of the Conference of the Parties do after all provide a unique global forum. They provide the setting for groundbreaking discussion of financial instruments and of matters ranging from practical examples of how the concept

of sustainability can be implemented at local level to the fair – or at least fairer – structuring of relationships between developing and industrialised nations. Even if only a small proportion of the good ideas and creative experiences put forward are formally incorporated into resolutions of the CBD, they still help international developments to progress. This is more readily observable in the concrete development of protected areas than in the ABS discussions, but without the CBD these international discussions might not have taken place at all, since there would have been no global platform for them. In addition, the CBD enables new alliances to emerge, such as the Conservation Finance Alliance formed of NGOs, government bodies and the relevant United Nations programmes.

### *The real goal: good global governance*

The quintessence of the CBD's goals is the attaining of “good global governance”. The aim is to strengthen the rights of local and indigenous communities while respecting national

sovereignty and at the same time to assume shared global responsibility for living natural resources. Other environmental treaties (CITES, Ramsar, the World Heritage Convention, the Convention on Migratory Species, the UN Framework Convention on Climate Change) are increasingly acknowledging the CBD as their common umbrella convention and seeing their own implementation as contributing to attainment of the CBD's goals. This has resulted in a veritable spate of initiatives concerned with climate protection and the sustainable utilisation of natural resources. A serious re-alignment of political priorities is still lacking, and good global governance still plays only a minor role in the thinking of national governments. But there is growing acknowledgement of just how closely concepts such as biodiversity conservation and poverty reduction are intertwined (Niekisch, 2006). And all over the world – while government delegations haggle over words – private initiatives have long ago begun to implement the CBD's core ideas. Local groups, such as those that have come together in the Equator Initiative of the United Nations Development Programme, are already providing the world with lessons on the feasibility of sustainability.



Photo: Jörg Böthling

*Industrialisation also takes place  
at the expense of biodiversity.*