

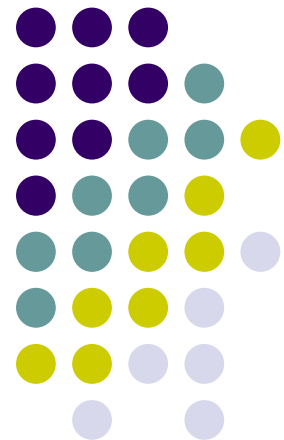
**Workshop on Developing Novel Strategies for  
Natural Product-Based Drug Discovery for Tropical  
Diseases**

**Capetown, November 2008**

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**Accessing Genetic Resources:  
the Ecuadorian Experience**

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# AGENDA



- **INTRODUCTION**
- **CONVENTION ON BIOLOGICAL DIVERSITY**
- **ANDEAN COMMUNITY**
- **ECUADORIAN LEGAL FRAMEWORK**
- **PROPOSALS OF ACCESS TO GENETIC RESOURCES IN ECUADOR**
- **NATIONAL REGULATION OF ACCESS TO GENETIC RESOURCES**

# INTRODUCTION



According to CDB - Article 2 **genetic resources** means genetic material of actual or potential value, and **genetic material** means any material of plant, animal, microbial or other origin containing functional units of heredity (CDB s/a)

**Our country has a legal and administrative framework that regulates the access to genetic resources based on: the National Constitution, CBD, Andean Decisions, Laws and Regulations**

# CONVENTION ON BIOLOGICAL DIVERSITY- CBD (1)



- Three objectives:
  - BIODIVERSITY CONSERVATION
  - SUSTAINABLE USE OF BIODIVERSITY
  - EQUITABLE BENEFIT SHARING
- Parties are committed to conservation of species, transfer of technology and equitable genetic resources benefit- sharing, arising from commercial utilization

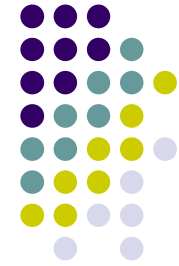
# CONVENTION ON BIOLOGICAL DIVERSITY- CBD (2)



Article 15 – Access to genetic resources:

- Recognizes the sovereignty rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.
- Mutually agreed terms
- Options and mechanisms for access
- Access legislation

# ANDEAN COMMUNITY DECISIONS ON GENETIC RESOURCES

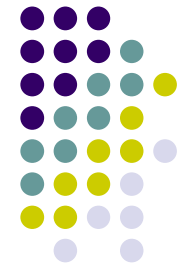


- **Decision 391** – Common regime on Access to genetic resources: Art. 7 and Eighth transitory disposition. Previous consent of the indigenous communities and Andean regime on traditional knowledge protection.
- **Decision 523** – Regional Strategy on Biodiversity for Tropical Andean countries. Traditional knowledge protection.
- **Decision 486** – Regime on industrial property.  
Art. 3, *sui generis* protection systems on traditional knowledge.

# ECUADORIAN LEGAL FRAMEWORK



- **NATIONAL CONSTITUTION:** Second section: Nature and environment. Biodiversity.
  - Arts. 400, 403, 408, 419 - The State will execute sovereignty on biodiversity, which administration and management will be carried on with intergenerational responsibility
- Intellectual property law of Ecuador – *Sui generis* System
  - **Art. 377** - Protection of traditional knowledge via a *sui generis* system.
- Regulation establishment - Decision 391



In Ecuador there has not yet been granted any contract, but there have been received many proposals between 1996 and 1999, e.g.:

- Merck proposal (1997)
- “ProBenefit - Lessons learned from an ABS research project in Ecuador” (2007)



Ad Hoc Ended Working Group on Access and Benefit Sharing (ABS-WG6)

# PROPOSAL OF ACCESS TO GENETIC RESOURCES

*(National regulation to Decision 391 of the CAN)*



## Competent National Authority and its Attributions: **MINISTRY OF THE ENVIRONMENT**

- Receive, evaluate, accept or deny requests of access
- Negotiate, subscribe and authorize contracts of access and also modify, suspend and cancel those contracts
- Defend the rights of the suppliers of the biological resources
- Supervise and control the fulfillment of the conditions stated in the contracts

# GENERAL NORMS







- ***NATIONAL GOODS OF PUBLIC USAGE***
- Genetic resources represent national goods of public usage:
  - Inalienable
  - Imprescriptible
  - Nonzeisable
- ***LIMITATION***
- Ecuador will not recognize any right to products obtained from an access activity that does not fulfill the dispositions of Decision 391 and this Regulation
- ***OBLIGATORY MONITORING***
- In charge of the Ministry of the Environment and other competent public organizations, according to the nature of the resource

# EVALUATING ORGANIZATIONS



- Technical evaluation organizations able to prepare a Technical Report regarding the requests of access sent by the Ministry of the Environment
- Its scope of intervention was divided

|   |  |
|---|--|
|    | <b>MAE</b><br>Organismos silvestres terrestres: animales (anfibios) vegetales y microorganismos                            |
|   | <b>MAGAP</b><br>Organismos vegetales silvestres (determinados en la lista del Anexo del Tratado de Recursos Fitogenéticos) |
|  | <b>INP</b><br>Organismos marinos y dulceacuícolas, excepto los anfibios  |
|  | <b>INIAP</b><br>Organismos cultivados y domesticados, y especies y variedades silvestres relacionadas a los cultivos       |

1. Applicant Identification
2. Supplier Identification
3. National institution of Support
4. CV Project Responsible and Technical Staff
5. Project Proposal
6. Acceptance Letters or Supplier commitment
7. Letter of commitment of the supporting institution
8. Sworn declaration
9. Negotiation Proposal
10. Origin of research funds: Contract frame
11. Intangible Component: previous consultation plan

**PERSON IN CHARGE AND LENGTH**

