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30 Years supporting advancing multilateral rules for the fair and equitable sharing of the benefits arising from the utilization of biological diversity

By Dr. Viviana Munoz Tellez

Countries are bound through international agreements to advance biodiversity conservation, including by maintaining genetic diversity, to ensure sustainable use of biodiversity and advance both access and fair and equitable sharing of benefits from the utilization of genetic resources and associated traditional knowledge. These obligations are also reasserted in the United Nations (UN) agreed Sustainable Development Goals (SDGs).

There are several international agreements in which these issues are addressed, including the Convention on Biological Diversity (CBD), the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA Treaty), the Agreement under the UN Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ), as well as fora where these issues are debated or negotiated, such as those conducted under the auspices of the World Health Organization (WHO), the International Union for the Protection of New Varieties of Plants (UPOV), the World Intellectual Property Organization (WIPO), the United Nations Environment Programme (UNEP) and the World Trade Organization (WTO).

The South Centre has provided constant support over the years to developing countries in advancing their common interests in this field and ensuring coherence and synergies among the different conventions and negotiations.

Les pays sont tenus, en vertu d'accords internationaux, de promouvoir la conservation de la biodiversité, notamment en préservant la diversité génétique, afin de garantir l'utilisation durable de la biodiversité et de favoriser l'accès et le partage juste et équitable des avantages découlant de l'utilisation des ressources génétiques et des connaissances traditionnelles associées. Ces obligations sont également réaffirmées dans les Objectifs de Développement Durable (ODD) convenus par les Nations unies (ONU).

Plusieurs accords internationaux traitent de ces questions, notamment la Convention sur la diversité biologique (CDB), le Traité international sur les ressources phytogénétiques pour l'alimentation et l'agriculture (TIRPAA), l'Accord relevant de la Convention des Nations Unies sur le droit de la mer relatif à la conservation et à l'utilisation durable de la diversité biologique marine dans les zones situées au-delà de la juridiction nationale (BBNJ), ainsi que des forums où ces questions sont débattues ou négociées, tels que ceux organisés sous les auspices de l'Organisation mondiale de la santé (OMS), de l'Union internationale pour la protection des obtentions végétales (UPOV), de l'Organisation mondiale de la propriété intellectuelle (OMPI), du Programme des Nations Unies pour l'environnement (PNUE) et de l'Organisation mondiale du commerce (OMC).

Au fil des ans, South Centre a apporté un soutien constant aux pays en développement afin de promouvoir leurs intérêts communs dans ce domaine et d'assurer la cohérence et les synergies entre les différentes conventions et négociations.

Los países están obligados por acuerdos internacionales a promover la conservación de la biodiversidad, incluido el mantenimiento de la diversidad genética, con el fin de garantizar el uso sostenible de la biodiversidad y promover tanto el acceso como la distribución justa y equitativa de los beneficios derivados de la utilización de los recursos genéticos y los conocimientos tradicionales asociados. Estas obligaciones también se reafirman en los Objetivos de Desarrollo Sostenible (ODS) acordados por las Naciones Unidas (ONU).

Existen varios acuerdos internacionales en los que se abordan estas cuestiones, entre ellos el Convenio sobre la Diversidad Biológica (CDB), el Tratado Internacional sobre los Recursos Fitogenéticos para la Alimentación y la Agricultura (TIRFAA), el Acuerdo en el marco de la Convención de las Naciones Unidas sobre el Derecho del Mar relativo a la Conservación y e Uso Sostenible de la Biodiversidad Marina más allá de las Jurisdicciones Nacionales (BBNJ), así como foros en los que se debaten o negocian estas cuestiones, como los que se celebran bajo los auspicios de la Organización Mundial de la Salud (OMS), la Unión Internacional para la Protección de las Obtenciones Vegetales (UPOV), la Organización Mundial de la Propiedad Intelectual (OMPI), el Programa de las Naciones Unidas para el Medio Ambiente (PNUMA) y la Organización Mundial del Comercio (OMC).

South Centre ha brindado un apoyo constante a lo largo de los años a los países en desarrollo para promover sus intereses comunes en este ámbito y garantizar la coherencia y las sinergias entre las diferentes convenciones y negociaciones.

各国通过国际协议承诺推进生物多样性保护，包括维护遗传多样性，以确保生物多样性的可持续利用，并促进遗传资源及其相关传统知识的获取与公平合理惠益分享。这些义务在联合国通过的可持续发展目标（*SDGs*）中也得到重申。

涉及这些议题的国际协议包括：《生物多样性公约》（*CBD*）、《粮食和农业植物遗传资源国际条约》（*ITPGRFA*条约）、《〈联合国海洋法公约〉下国家管辖范围以外区域海洋生物多样性的养护和可持续利用协定》（*BBNJ*），以及在世界卫生组织（*WHO*）、国际植物新品种保护联盟（*UPOV*）、世界知识产权组织（*WIPO*）、联合国环境规划署（*UNEP*）和世界贸易组织（*WTO*）主持下开展的讨论或谈判论坛。

多年来，南方中心一直支持发展中国家推进其在该领域的共同利益，确保各项公约和谈判之间的一致性和协同增效。

I. Balancing Conservation, Sustainable Use and Fair and Equitable Sharing of Benefits Arising from Utilization of Biodiversity

In the 1980s, a new concept of "sustainable development"[1] took hold, driven by an increasing concern about environmental degradation and biodiversity loss resulting primarily from historic patterns of growth and consumption in developed countries, and by the need to balance economic growth with sustainability, as a development pathway for developing countries.

The South Commission noted in its seminal report of 1990 that one of the main challenges to the South is "to pursue its development with due concern for the protection of the natural environment so that it may sustain the present and future generations."[2] It recommended that developing countries "secure the adoption of a global strategy for sustainable development in the context of a redefined notion of global interdependence and shared benefits and costs."[3]

The negotiations for a Convention on Biological Diversity (CBD) in 1991 – 1993 were a crucial moment for advancing this approach. Developing countries supported the common global goal of conservation of biological diversity, while emphasizing that this requires incentives for conservation, to create barriers to biodiversity loss, and to ensure a fairer distribution of the economic benefits from the use of biological diversity. Biotechnology (including genetics, microbiology, and biochemistry) brought forward new industrial applications including for healthcare and agriculture, and new equity and ethical concerns, namely what could developing countries gain from biotechnology and the extent to which patents on biotechnological developments contributed to an unequal distribution of benefits, and the disregard of the rights of indigenous peoples and local communities that hold collective knowledge relevant to sustainable use and conservation of biodiversity. Ultimately, the CBD adopted three objectives: conservation of biological resources, their sustainable use, and the fair and equitable sharing of the benefits arising out of the utilization of such resources. The CBD also asserted that countries have sovereignty over genetic resources in their territories and, therefore, can decide on the rules for access to and use of them. This contrasted to the approach that had been advanced earlier with regards to plant genetic resources as a common heritage of mankind.[4]

The South Centre, founded in 1995 following the recommendation of the South Commission, provided support for developing countries in the form of legal and policy oriented analysis and capacity building for the implementation of the CBD which came into force in 1993, including the legal interpretation of its provisions. Thereafter, the South Centre has worked with the coalitions of developing countries such as the Group of 77 (G-77) and regional groups in subsequent negotiations to advance their common goals, in particular in the negotiation for the adoption of a supplementary agreement to the CBD, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the CBD (Nagoya Protocol) that came into force in October 2014, at which the South Centre was present.[5]

II. The Nagoya Protocol

The South Centre observed closely the negotiations for the Nagoya Protocol and provided timely analysis. Upon conclusion of the Protocol, a general analysis was published[6]. The South Centre through regular briefings and publications has aimed to support interpretation, ratification and implementation of the Nagoya Protocol, which has been slow in some countries due to insufficient capacity.[7]

The Protocol resulted from consensus and as such its normative content was less than envisioned by developing countries for an international instrument to frame national access and benefit sharing (ABS) laws and policies to end biopiracy and restore fairness and equity in the access to genetic resources and associated traditional knowledge. However, the Protocol provides considerable flexibility for countries to exercise options through national law as well as through the work of the Conference of the Parties (COP/MOP) at the implementation stage after the Protocol entered into force.

A clear recommendation made by the South Centre was for Parties to include requirements on prior informed consent (PIC) for access to genetic resources and/or the traditional knowledge associated to genetic resources in their national law, to provide that benefits are shared upon mutually agreed terms (MAT) with minimum terms defined. Some of the important advancements brought about by the Nagoya Protocol was the inclusion of the term 'utilisation of genetic resources' that extends the scope of the Protocol to biochemical components of genetic resources ('derivatives'), as it provides for benefit sharing arising from research and development on the genetic resource and/or the biochemical component as well as subsequent applications and their commercialisation. The Protocol also obliges countries to establish one or more checkpoints to monitor compliance and enhance transparency about the utilisation of genetic resources and derivatives. While this general provision serves to advance compliance measures in provider and user countries, it did not specify the checkpoints that would be required, and did not include the proposal of developing countries for intellectual property offices to require, at least in patent applications, the disclosure of information of the origin and source of genetic resources and associated traditional knowledge in a claimed invention.[8]

III. Pathogen Access and Benefit Sharing

The South Centre also provided a clear legal analysis on whether pathogens, a subset of genetic resources, are within the scope of the Protocol (which is the case).[9] A Party to the Protocol can develop a national law that deals with pathogens as a genetic resource and subject it to the ABS requirements; it can also decide to regulate access to pathogens under a different regime for more rapid access – such as the one developed in the World Health Organization (WHO) Pandemic Influenza Preparedness Framework (PIP) – if in line with the ABS objective of the Protocol, whereby access is facilitated yet conditioned to benefit sharing through annual payments by companies and access to vaccines for developing countries at affordable prices.[10]

This issue has continued to be high on the agenda of international negotiations on sharing samples and information on pathogens for public health purposes. The South Centre has continued to provide timely analysis to developing countries at the interface of the CBD and Nagoya Protocol and international obligations in international health law, i.e. the International Health Regulations (2005) and the amendments that will come into force in September 2025 for most WHO member States.[11]

IV. Intellectual Property and Digital Sequence Information

The South Centre has maintained a prominent role in the technical analysis and providing recommendations to developing countries on issues in relation to benefit sharing from the use of genetic resources and associated traditional knowledge, intellectual property protection, and the obligations concerning the utilization of digital data derived from genetic resources -with the placeholder name of "digital sequence information" given by the Conference of the Parties of the CBD.[12] The case-by-case approach to benefit sharing of genetic resources has proven impractical for the exchanges of digital sequence information, although it is recognised in the framework of the CBD and Nagoya Protocol that benefit sharing should flow from its use. The South Centre has made several contributions to these debates in the CBD and Nagoya COP/MOP and through various publications.[13]

V. Negotiations of the Post 2020 Biodiversity Framework

The negotiations for the adoption of a Post-2020 Global Biodiversity Framework proved complex in balancing the different objectives of the CBD and the relation to the implementation of the Nagoya Protocol. The South Centre supported developing country negotiators in the process with analysis and participated in the discussions.[14] The new Global Biodiversity Framework was adopted in December 2022 with the aim to establish new commitments for actions by countries to halt and reverse biodiversity loss, promote sustainable use of biodiversity and the equitable sharing of the benefits that arise from the utilization of genetic resources and associated traditional knowledge.

VI. Traditional Knowledge

The role of traditional and farmers' knowledge in advancing sustainable development - including knowledge associated with medicinal plants and uses and knowledge associated with seed planting, harvesting and production and the preservation of genetic diversity - has gained increased recognition in the past three decades, from the Earth Summit in Rio in 1992, the CBD in 1994, the Food and Agriculture Organization (FAO) International Treaty on Plant Genetic Resources for Food and Agriculture in 2004, the Nagoya Protocol provisions relating to traditional knowledge associated with genetic resources in 2010, the United Nations (UN) Declaration on the Rights of Indigenous Peoples in 2007 to the World Intellectual Property Organization (WIPO) International Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge of 2024.

However, there are still significant gaps in the recognition of rights of indigenous peoples and local communities and farmers over their traditional knowledge and their contributions to biodiversity conservation and sustainable use. In this regard, the South Centre has continuously advanced discussions, participated in fora and published research to advance the promotion and protection of traditional knowledge and genetic diversity. The protection and promotion of traditional medicine towards advancing the right to health for all in developing countries has also remained an important area of focus.[15] Furthermore, the South Centre has been at the forefront of discussions on advancing ABS for genetic resources for food and agriculture, the recognition of the contributions to conservation, sustainable use and innovation by farmers and to find ways to compensate them for their contributions, and limiting the scope of intellectual property rights that can be claimed for plant genetic materials.

Viviana Munoz Tellez of the South Centre at the WIPO Diplomatic Conference on Genetic Resources and Associated Traditional Knowledge in May 2024.

VII. FAO ITPGRFA Treaty, Farmers' Rights and Intellectual Property Rights

The South Centre followed the negotiations of the FAO International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) Treaty that culminated in 2004 and upon its completion has provided expert analysis for its implementation in national laws.[16] The understanding of the provisions of the treaty has also been enhanced by the various South Centre publications on the Treaty.[17] The treaty to date has supported the international exchange of plant genetic resources for an agreed list of crops, however the treaty has not led to effective benefit sharing from industry in exchange for access to such resources.[18] Moreover, while the treaty recognizes the contributions of farmers and the need to take measures to protect and promote Farmers' Rights, the implementation is left to national law. The South Centre has promoted that developing countries implement the treaty in such a way as to protect farmers' practices with respect to saving, using, exchanging and selling seeds and other propagating material, which is central to achieving the Sustainable Development Goals.[19] The treaty established that no exclusive rights based on intellectual property should be claimed in relation to materials accessed, in the form received, through the multilateral system developed through the treaty. However, this has not prevented the industry from obtaining intellectual property rights for plant genetic materials, including in developing countries.[20] An important related issue that the South Centre has called attention to in multilateral fora is the interrelations of intellectual property treaties, in particular the World Trade Organization (WTO) Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), the International Union for the Protection of New Varieties of Plants (UPOV) and the ITPGRFA, and the need of a more coherent international legal system for the recognition of Farmers' Rights as well as an appropriate implementation in domestic legislation.

The South Centre has provided guidance and policy recommendations to facilitate the enactment and implementation of legislation by members of UPOV and contracting parties of the FAO ITPGRFA.[21] The South Centre also contributed to discussions in the context of UPOV on the implementation of the exception of acts done privately and for non-commercial purposes in relation to smallholder farmers.[22] The South Centre has also been at the forefront of understanding trends in seed and plant - related patenting and providing expert analysis on the legal options available to developing countries, such as to balance between the protection of plant-related inventions and the rights of breeders and farmers through the introduction of specific exceptions to patent rights and specific exceptions for farmers[23], and continues to support discussions to inform developing countries of the policy options available to them that advances sustainable development and food security.[24]

The South Centre has maintained a number of collaborations with intergovernmental organizations, academia and civil society on these issues, including FAO, WHO, the Centre of Excellence for Biodiversity Law (CEBLAW), Malaysia, the Centre for WTO Studies, India, the Southeast Asia Regional Initiatives for Community Empowerment (SEARICE), the Third World Network (TWN), the Association for Plant Breeding for the Benefit of Society (APBREBES), the Global Research and Information Access Initiative (GRAIN), the Action Group on Erosion, Technology and Concentration (ETC Group), *Asociacion para la Naturaleza y el Desarrollo Sostenible* (ANDES), Oxfam Novib, Université Catholique de Louvain and Vrije Universiteit Brussel.

VIII. The BBNJ Agreement

Under the UN Convention on the Law of the Sea, negotiations on a new legally-binding instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) began in 2016 and concluded with the adoption of the agreement in 2023. In 2017, the South Centre first published an analysis on how the future agreement could support filling the gap in the international regime regarding marine genetic resources in areas beyond national jurisdiction (ABNJ).[25] The aspect of benefit sharing would become later part of Section II of the final agreement. This early expert analysis supported developing countries in developing their positions. The South Centre continued to follow the negotiations, and from 2022 became more actively engaged in supporting the Group of 77+China, including through briefings and informal papers for discussion amongst the Group, particularly on issues of the Part II of the Agreement relating to benefit sharing and intellectual property.[26] The South Centre was instrumental in providing the Group of 77+China with expert support to elaborate the text proposals. The strong coordination among developing countries was a critical factor to strengthen their collective negotiation position when their proposals received strong resistance from developed countries.

The BBNJ Agreement includes important developing country priorities. Importantly, its scope includes digital sequence information. There are also provisions on benefit sharing, capacity building and technology transfer, while to reach consensus some concessions were made, in particular the final absence of regulating intellectual property in relation to marine genetic resources.[27] The Agreement advances as a principle that marine genetic resources in areas beyond national jurisdiction are the common heritage of humankind, meaning that all countries have the right to benefit from their exploitation. This principle is important to regulate bioprospection in high seas -a costly activity that can only be conducted by a few countries- and implies that all countries, irrespective of geographical location, development level or technological capacity, have the right to access marine resources of areas beyond national jurisdiction. Moreover, benefits that derive from accessing marine genetic resources in areas beyond national jurisdiction are to be shared in a fair and equitable manner (these can be through monetary and non-monetary benefits). Monetary benefits include a share of profits from products derived from the utilization of marine genetic resources including their digital sequence information. The Agreement establishes mechanisms for transfer of marine technology to developing countries and requires contracting parties to provide resources to facilitate capacity building. It also lays down specific modalities for technology transfer, which should be on mutually agreed fair and most favorable terms, including concessional and preferential terms. Transferred technology should also be appropriate, relevant, reliable, affordable, up to date, environmentally sound and available in an accessible form for developing State Parties. Importantly, the Agreement mandates the use of BBNJ standardized batch identifiers that will enable monitoring of activities undertaken on marine genetic resources and digital sequencing information. This element is important to provide more certainty on the fair and equitable sharing of the benefits arising from such utilization.

The BBNJ treaty requires 60 ratifications to enter into force. The South Centre will continue supporting developing countries with capacity building and through the G-77 in New York towards the convening of the first Conference of the Parties, and in the treaty implementation.

IX. Looking Ahead

The South Centre has unique capacities to support its Member States in these complex areas at the intersect of various international conventions and disciplines, and diverse interests. One of the uniqueness of the South Centre is its institutional memory, having observed and engaged in processes and negotiations in the various fora over the past three decades, with staff that has deep expertise on the subject matter and has been long engaged with the South Centre. Moving forward, the South Centre will continue to focus on supporting its Member States to address the challenge of international regime coherence and in the implementation of national laws, as well as to work collectively in coordination in the ongoing and future international negotiations in fora such as the WHO, FAO, WIPO and the BBNJ. In its research agenda, the South Centre will also increase attention to the linkages between biodiversity, health, climate change, migration, advancing equity and poverty reduction.

Endnotes:

[1] United Nations, *Report of the United Nations Conference on Environment and Development*, Rio de Janeiro, 3-14 June 1992, Proceedings of the Conference, Volume 2 (New York, 1993). Available from https://digitallibrary.un.org/record/168679?v=pdf.
[2] *The Challenge to the South*, Report of the South Commission (New York, Oxford University Press, 1990), p. 23. Available from https://www.southcentre.int/wp-content/uploads/2013/02/The-Challenge-to-the-South_HRes_EN.pdf.
[3] *Ibid.*, p. 224.
[4] See e.g., Food and Agriculture Organization (FAO) International Undertaking on Plant Genetic Resources at https://www.fao.org/4/aj416e/aj416e.pdf.
[5] See the South Centre statement on the Coming into Force of the Nagoya Protocol at https://www.southcentre.int/statement-13-17-october-2014/.
[6] Gurdial Singh Nijar, *The Nagoya Protocol on Access and Benefit Sharing of Genetic Resources: Analysis and Implementation Options for Developing Countries*, Research Paper, No. 36 (Geneva, South Centre, 2011). Available from https://www.southcentre.int/research-paper-36-march-2011/.
[7] See Viviana Munoz Tellez, "The Nagoya Protocol International Access and Benefit Sharing Regime", Policy Brief, No. 86 (Geneva, South Centre, 2020). Available from https://www.southcentre.int/policy-brief-86-november-2020/.
[8] It took more than ten years after the adoption of the Nagoya Protocol to reach an agreement in the World Intellectual Property Organization (WIPO) on a minimum standard for disclosure requirements. The WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge, adopted on 24 May 2024, requires all Parties to introduce an obligation for patent applicants to disclose the source or origin of genetic resources (GRs) and associated traditional knowledge (TK) in patent applications.
[9] See Gurdial Singh Nijar, "The Nagoya ABS Protocol and Pathogens", Policy Brief, No. 4 (Geneva, South Centre, 2011). Available from https://www.southcentre.int/policy-brief-4-april-2011/#more-1940.
[10] See M. Herder, M. Krishnamurthy, "Indonesia's Refusal to Share Influenza Virus Specimens with the World: Reviving the Arguments for Justice in Influenza Pandemic Preparedness", Dalhousie University Schulich School of Law Working Paper No. 23 (2011). Available from https://digitalcommons.schulichlaw.dal.ca/cgi/viewcontent.cgi?article=1022&context=working_papers.
[11] See Nirmalya Syam, "The WHO CA+ Discussions on Pathogen Access and Benefit Sharing: State of Play", Policy Brief, No. 123 (Geneva, South Centre, 2023). Available from https://www.southcentre.int/policy-brief-123-14-december-2023/.
[12] See Nirmalya Syam, Thamara Romero, *Misappropriation of Genetic Resources and Associated Traditional Knowledge: The Challenges Posed by Intellectual Property and Genetic Sequence Information*, Research Paper, No. 130 (Geneva, South Centre, 2021). Available from https://www.southcentre.int/research-paper-130-april-2021/.
[13] See Jorge Cabrera, "Digital Sequence Information (DSI) and national measures: approaches and perspectives", *SouthViews* No. 205, 31 August 2020 (Geneva, South Centre) at https://www.southcentre.int/southviews-no-205-31-august-2020/; Joseph Henry Vogel, Manuel Ruiz Muller, Klaus Angerer, Christopher May, *Movement Forward on ABS for the Convention on Biological Diversity: Bounded Openness Over Natural Information*, Research Paper, No. 160 (Geneva, South Centre, 2022) at https://www.southcentre.int/research-paper-160-21-july-2022/;

Joseph Henry Vogel, Natasha C. Jiménez-Revelles, Xavier A. Maldonado-Ramírez de Arellano, Decision 15/9 and the Nagoya Protocol: Who should get what in the Multilateral Benefit-Sharing Mechanism?, Research Paper, No. 210 (Geneva, South Centre, 2024) at https://www.southcentre.int/research-paper-210-30-september-2024/; Viviana Munoz Tellez, "A Fair Solution for Access and Sharing of Benefits of Digital Sequence Information? Decision for the CBD COP in November 2024", SouthViews No. 275, 4 October 2024 (Geneva, South Centre) at https://www.southcentre.int/southviews-no-275-4-october-2024/#more-23768.

[14] See Viviana Munoz Tellez, "Proposals to Advance the Negotiations of the Post 2020 Biodiversity Framework", Policy Brief, No. 90 (Geneva, South Centre, 2021) at https://www.southcentre.int/policy-brief-90-march-2021/; South Centre Statement to the formal meeting of SBSTTA 24, Agenda Item 3: Post 2020 Global Biodiversity Framework at https://www.southcentre.int/statement-june-2021/; Statement by the South Centre to the Third meeting of the Open-Ended Working Group on the Post 2020 Global Biodiversity Framework (GBF) at https://www.southcentre.int/statement-september-2021/; S. Faizi, "Self-withering: The Biodiversity Convention and its new Global Biodiversity Framework", *SouthViews* No. 257, 28 February 2024 (Geneva, South Centre) at https://www.southcentre.int/southviews-no-257-28-february-2024/.

[15] See Carlos Correa, *The Promotion and Protection of Traditional Medicine: Implications for Public Health in Developing Countries* (Geneva, South Centre, 2002). Available from https://www.southcentre.int/book-by-the-south-centre-2002-2/.

[16] See Gurdial Singh Nijar, Gan Pei Fern, Lee Yin Harn, Chan Hui Yun, *Food Security and Access and Benefit-Sharing for Genetic Resources for Food and Agriculture* (Geneva, South Centre, 2011). Available from https://www.southcentre.int/wp-content/uploads/2016/05/Bk_2011_Food-Security-and-Access-and-Benefit-Sharing-for-Genetic-Resources-for-Food-and-Agriculture_EN.pdf.

[17] See Kent Nnadozie, "The International Treaty on Plant Genetic Resources for Food and Agriculture: Saving, Sharing and Taking Care of the Plants and Seeds that Feed the World", Policy Brief, No. 105 (Geneva, South Centre, 2021). Available from https://www.southcentre.int/policy-brief-105-october-2021/.

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[19] See Carlos Correa, *Implementing Farmers Rights Relating to Seeds*, Research Paper, No. 75 (Geneva, South Centre, 2017). Available from https://www.southcentre.int/wp-content/uploads/2017/05/RP75_Implementing-Farmers-Rights-Relating-to-Seeds_EN-1.pdf.

[20] See *The Status of Plant Patenting Plants in the Global South* (South Centre and Oxfam Novib, 2018) at https://www.southcentre.int/wp-content/uploads/2019/03/SC_Oxfam_Research-Report_The-Status-of-Patenting-Plants-in-the-Global-South_2018.pdf.

[21]See, e.g., https://openknowledge.fao.org/server/api/core/bitstreams/a313df62-2aa5-40b2-bf5b-c80b8d0c03ff/content.

[22] See https://www.southcentre.int/sc-submission-february-2021/.

[23] See *Patenting of Plants and Exceptions to Exclusive Rights: Lessons from European Law*, South Centre Study, September 2021 at https://www.southcentre.int/south-centre-study-september-2021/.

[24] See Saurav Ghimire, I*dentifying Legal Challenges for Farmers' Innovation*, South Centre Report, January 2024. Available from https://www.southcentre.int/south-centre-report-16-january-2024/.

[25] See Carlos Correa, *Access to and Benefit-Sharing of Marine Genetic Resources beyond National Jurisdiction: Developing a New Legally Binding Instrument*, Research Paper, No. 79 (Geneva, South Centre, 2017). Available from https://www.southcentre.int/research-paper-79-september-2017/#more-10104.

[26] Many of the inputs developed by the South Centre were not published. Guidance on addressing pending issues of intellectual property in the BBNJ agreement was published, as Statements on Understanding on Intellectual Property Rights at time of Signature or Ratification of the BBNJ Treaty. See https://www.southcentre.int/statements-on-iprs-of-bbnj-april-2024/.

[27] See Jacquelene Mwangi, "UN Member States Adopt the Agreement on Conservation and Sustainable Use of Marine Biodiversity Beyond National Jurisdiction (BBNJ Treaty)", *SouthNews* No. 454, 25 July 2023 (South Centre). Available from https://mailchi.mp/southcentre/southnews-un-member-states-adopt-the-agreement-on-conservation-and-sustainable-use-of-marine-biodiversity-beyond-national-jurisdiction-bbnj-treaty?e=6772297de3.

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SOUTH CENTRE

The South Centre is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre was established by an Intergovernmental Agreement which came into force on 31 July 1995. Its headquarters is in Geneva, Switzerland.

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