

Article 16 Access to and transfer of technology

238. What is the relative priority afforded to implementation of this Article and the associated decisions by your country?

a) High		b) Medium	X	c) Low	
---------	--	-----------	---	--------	--

239. To what extent are the resources available adequate for meeting the obligations and recommendations made?

a) Good		b) Adequate		c) Limiting	X	d) Severely limiting	
---------	--	-------------	--	-------------	---	----------------------	--

Further comments on relative priority and on availability of resources

Question 239.

There is a chapter on technology access and transfer (Brazil as a receiver) in Provisional Measure 2186, 23rd August, 2001. The *Conselho de Gestão do Patrimônio Genético – CGEN* [Council for the Administration and Management of Genetic Patrimony – CGEN] has a *Câmara Técnica sobre Acesso e Transferência de Tecnologia* [Thematic Chamber on Access to Technology and Technology Transfer] (see comments on Question 217). The government initiative on Innovation and Technology (Ministry of Science and Technology - MCT) and the *Centro de Gestão de Estudos Estratégicos* [Strategic Studies Management Centre] promote high level prospective studies and research in science and technology and their relation with productive sectors. See: www.cgee.org.br.

Serviços Virtuais para Transferência de Tecnologia da Empresa Brasileira de Pesquisa Agropecuária (EMBRAPA) [Virtual Services For Technology Transfer of the Brazilian Agricultural and Cattle-Breeding Research Company – EMBRAPA]. *Projeto Diagnose Virtual* [Virtual Diagnosis Project]: Environment and plant and animal health, which besides allowing the remote diagnosis of diseases, also enables producers and extensionists to have greater access to EMBRAPA's veterinarians and phytopathologists through virtual consultation. A special system for corn specialists was developed. See: <http://diagnose.cnptia.embrapa.br/>.

240. Has your country taken measures to provide or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment (16(1))?

a) no measures	
b) some measures in place	X
c) potential measures under review	
d) comprehensive measures in place	

241. Is your country aware of any initiatives under which relevant technology is transferred to your country on concessional or preferential terms (16(2))?

a) no	X
b) yes (please give brief details below)	

242. Has your country taken measures so that Contracting Parties which provide genetic resources are provided access to and transfer of technology which make use of those resources, on mutually agreed terms (16(3))?

a) not relevant	
b) relevant, but no measures	X
c) some measures in place	
d) potential measures under review	
e) comprehensive measures in place	
If so, are these measures	
a) Legislation	
b) Statutory policy or subsidiary legislation	
c) Policy and administrative arrangements	X

Chapter 1

243. Has your country taken measures so that the private sector facilitates access to joint development and transfer of relevant technology for the benefit of government institutions and the private sector of developing countries (16(4))?	
a) no measures	X
b) some measures in place	
c) potential measures under review	
d) comprehensive measures in place	
If so, are these measures	
a) Legislation?	
b) Statutory policy and subsidiary legislation?	
c) Policy and administrative arrangements?	
244. Does your country have a national system for intellectual property right protection (16(5))?	
a) no	
b) yes	X
245. If yes, does it cover biological resources (for example, plant species) in any way?	
a) no	
b) yes – limited extent	X
c) yes – significant extent	

Decision III/17. Intellectual property rights

246. Has your country conducted and provided to the secretariat case-studies of the impacts of intellectual property rights on the achievement of the Conventions objectives?	
a) no	X
b) some	
c) many	

Further comments on implementation of this Article

Question 242.

Access legislation has yet to be regulated and refined.

Question 244.

The *Instituto Nacional da Propriedade Industrial – INPI* [National Institute for Industrial Property – INPI] is a Federal Autarchy, created in 1970, linked to the Ministry of Development, Industry and Foreign Trade (www.mdic.gov.br). Its main purpose, according to Law 9.279/96 (Industrial Property Law), is to execute nationally the norms regulating industrial property, considering its roles on social, political, legal and technical terms. It is also its function to articulate the signing, ratification and denunciation of conventions, treaties, pacts and agreements on industrial property (www.inpi.gov.br).

Question 245.

The Industrial Property Law prohibits the patenting of organisms and their components but allow the patenting of products and processes that use genetically modified microorganisms.

Law No.9456, 25th April 1997, *Lei de Proteção de Cultivares* [Law for the Protection of Cultivars], regulated by Decree No. 2366, 5th November, 1997.

Question 246.

The Secretariat has not been informed. There is a case study of contracts for access and benefit-sharing available at: www.mma.gov.br.