

# Access and rights to FGR in the Nordic region

Tentative conclusions and recommendations from a Nordic project

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Photo:  
Ragnar Jonskås



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# Project information

- > **Funding body**
  - > Nordic Council of Ministers (NCM)
  
- > **Duration**
  - > 2009 - 2010
  
- > **Budget**
  - > 100 600 Euros, 70 000 from NCM
  
- > **Institutions involved:**
- > **1. NordGen**
  - > Sweden – Henrik Hallingbäck (Sanna Black-Samuelsson)
  - > Finland – Mari Rusanen
  - > Denmark – Ditte Olrik (Gunnar F. Proschowski)
  - > Norway – Tore Skrøppa, Øyvind M. Edvardsen, Tor Myking
  
- > **2. Fr. Nansen Institute**
  - > Morten W. Tvedt



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## Background

- > The Nordic region is characterised by a simple and non-bureaucratic exchange of FRM.
- > Is this regime at stake??
- > The Nordic Ministerial declaration (2003) (Kalmar declaration) wished a project to clarify the issue.

“Describe the present situation as regards access and rights to FGR in the individual Nordic countries”



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	<b>Denmark</b>	<b>Finland</b>	<b>Sweden</b>	<b>Norway</b>
<b>Free access to the land (Every man's right)</b>	No	Yes	Yes	Yes
<b>Distinction between GR and biological resource?</b>	No	No	No	Yes
<b>Access to seeds/ cones from live trees?</b>	After agreement with land owner	After agreement with land owner	After agreement with land owner	Unrestricted access (theoretically)

“Identify issues and developments in international law that could negatively affect the present situation”



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- > The developments of a new ABS Protocol under the CBD are suggesting a more detailed system for ABS
  - > Too early to say whether they would constitute a bureaucratic obstacle for access and exchange of FGR.
- > The work on FGR in the FAO
  - > Too early to conclude
- > Patent law is applicable to forest trees (e.g. process protection) –
  - > but patent protection time is 20 years
  - > More relevant for short rotation species – *Salix*, Christmas trees (e.g propagation methods)
- > UPOV (breeders rights)
  - > Protection period 25 years

“Address relevant case studies -  
patenting is needed for  
commercialisation and how this can be  
combined with the general open  
exchange system”



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- > Plant varieties not patentable, UPOV can be applied in cases with plant varieties
- > Inventions at the gene level and processes patentable
  
- > Examples:
  - > Red-leaved birch in Finland
  - > SweTre – process protection applications (e.g.):
    - > Induction of early flowering in poplars
    - > Alterations in amino acid transporters to stimulate plant growth

# Recommendations for decision makers as regards future challenges and FGR



- > Generally: No *legal* obstacles for the forest tree sector caused by the current regulatory situations have been identified.
  
- > But:
- > **Climate:** Probably be an increased need for transfer of FGR between countries to track the changes in climate. Thus, there is a need to streamline *bureaucratic procedures on access and benefit sharing*.
  - > **Relevant for EUFORGEN?**
  
- > **Monitoring:** Biotechnological methods might imply increased use of process patents in the future. Does this advocate establishment of a *mechanism for follow up* the situation concerning access and rights to FGR?
  - > **Relevant for EUFORGEN?**

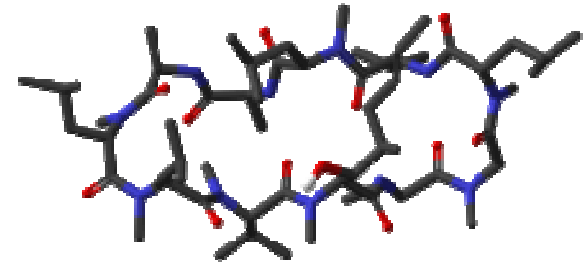
## *Who owns the genes of the forest trees?*



- > Several countries (Sweden, Finland, Denmark): The owner of the tree (biological resource)
- > Norway: Common property of the Norwegian people

# The case of Ciclosporin A

- > Discovered in a fungus during screening in Norway in 1972 by Swiss team
- > Found to be an immunosuppressant drug
- > Patented
- > Approved for use in 1983
- > Widely used to avoid organ rejection after organ replacements
- > Commercial success!
  
- > Would this be possible after the Nature Diversity Act of 2009 came into force?
  - > Yes!





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## *What is the problem?*

- > Presently: No problem
  
- > Future: Increased bureaucratic burden to maintain and secure the free access, e.g. different access regulations in different countries?
  - > Solution: Agree on common access regulations??
  
- > Possible patenting / application of UPOV for short rotation crops

# Possible implications for EUFORGEN activities

- > Include ABS of FGR in a future workshop?
  - > Developments in legislation
  - > Consequences for climate change mitigation
  - > Discuss common strategies



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Photo: Balsfjord, Troms  
Oskar Puschmann,  
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Thank you!



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