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CONFERENCE OF THE PARTIES TO THE CONVENTION  
ON BIOLOGICAL DIVERSITY SERVING AS THE  
MEETING OF THE PARTIES TO THE NAGOYA  
PROTOCOL ON ACCESS TO GENETIC RESOURCES  
AND THE FAIR AND EQUITABLE SHARING OF THE  
BENEFITS ARISING FROM THEIR UTILIZATION

First meeting

Pyeongchang, Republic of Korea, 13–17 October 2014

Item 8 of the provisional agenda\*

### **DRAFT MODALITIES OF OPERATION OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE**

*Note by the Executive Secretary*

#### **I. INTRODUCTION**

1. Article 14, paragraph 1, of the Nagoya Protocol establishes an Access and Benefit-sharing Clearing-House (ABS Clearing-House) as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention on Biological Diversity. The ABS Clearing-House shall serve as a means for sharing information related to access and benefit-sharing and shall provide access to information made available by each Party relevant to the implementation of the Nagoya Protocol.
2. Paragraph 4 of Article 14 provides that the modalities of operation of the ABS Clearing-House, including reports of its activities, shall be considered and decided upon by the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol (COP-MOP) at its first meeting, and kept under review thereafter.
3. The third meeting of the Intergovernmental Committee for the Nagoya Protocol (Intergovernmental Committee), in paragraph 9 of recommendation 3/4, requested the Executive Secretary to further refine the modalities of operation of the Access and Benefit-sharing Clearing-House, especially with regard to the identification of mandatory and non-mandatory information according to the provisions of the Nagoya Protocol, as well as the functionality and user-friendliness of the ABS Clearing-House, as further progress is made on the implementation of the pilot phase, taking into account the views expressed at the third meeting of the Intergovernmental Committee, as well as further feedback received from Parties and other stakeholders, for consideration and adoption by the first meeting of the COP-MOP.
4. Accordingly, the Executive Secretary prepared the draft modalities of operation annexed to the present document for consideration and adoption by the COP-MOP.

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\* UNEP/CBD/NP/COP-MOP/1/1.

*Annex*

**DRAFT MODALITIES OF OPERATION OF THE ABS CLEARING-HOUSE**

**A. *Role of the ABS Clearing-House***

1. The Nagoya Protocol on Access and Benefit-sharing provides that the Access and Benefit-sharing Clearing-House (ABS Clearing-House) should facilitate, at a minimum, the exchange of the following information relevant to the implementation of the Protocol:

(a) Legislative, administrative and policy measures on access and benefit-sharing with respect to genetic resources and traditional knowledge associated with genetic resources (Article 14, paragraph 2 (a));

(b) The national focal point and competent national authority or authorities (Article 14, paragraph 2 (b));

(c) Permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms (Article 14, paragraph 2 (c)).

2. Additional information that could be made available through the ABS Clearing-House may include:

(a) Relevant competent authorities of indigenous and local communities, and information as so decided (Article 14, paragraph 3 (a));

(b) Model contractual clauses (Article 14, paragraph 3 (b));

(c) Methods and tools developed to monitor genetic resources (Article 14, paragraph 3 (c));

(d) Codes of conduct and best practices (Article 14, paragraph 3 (d));

(e) Checkpoints established under Article 17, paragraph 1 (a);

(f) Information collected or received by the designated checkpoints, including from internationally recognized certificates of compliance, to monitor the utilization of genetic resources (Article 17, paragraph 1 (a) (i) and (iii));

(g) Capacity-building and development initiatives at national, regional and international levels (Article 22, paragraph 6).

3. The ABS Clearing-House should facilitate the exchange of other information pursuant to the decisions taken by the Conference of the Parties serving as the meeting of the Parties to the Protocol.

**B. *Characteristics of the ABS Clearing-House***

4. The development of the ABS Clearing-House shall be guided by the principles of inclusiveness, transparency and equity and undertaken in a manner consistent with the following characteristics:

(a) Making use of an internet-based central portal to provide access to information;

(b) Providing access to information in a simple, user-friendly, efficient, secure, flexible and functional manner;

(c) Offering a mechanism for offline submissions and access to information for Parties that indicate to the Secretariat a need to access such information;

(d) Making use of common formats to submit information;

(e) Making use of mandatory fields in the common formats, without prejudice to the protection of confidential information, in order to ensure that the minimum information required to provide for legal certainty, clarity and transparency is available to the ABS Clearing-House;

- (f) Designed to operate in the six official languages of the United Nations;
- (g) Making use, where appropriate, of controlled vocabularies within the framework of the Nagoya Protocol, which can be translated into the official United Nations languages, to facilitate registration and retrieval of information, and to facilitate the ability to search for records in all languages;
- (h) Making use of metadata about each record (i.e., descriptive identifiers such as name, date, author, etc.) to facilitate the registration and retrieval of information;
- (i) Requiring that the metadata which describes the primary data (e.g. the elements describing the content of a legislative measure chosen from a controlled vocabulary) be provided to the ABS Clearing-House in an official language of the United Nations, while recognizing that the primary data, being the substantive content of the ABS Clearing-House (e.g. a legislative measure), may be submitted to the ABS Clearing-House in the original language;
- (j) Encouraging Parties and other Governments to also provide courtesy translations of the primary data submitted to the ABS Clearing-House in one of the official United Nations languages;
- (k) Allowing for a mechanism to amend or update information while preserving legal certainty, clarity and transparency in accordance with the Nagoya Protocol, particularly in the case of a permit or its equivalent that constitutes an internationally recognized certificate of compliance. In such instances, the original permit or its equivalent constituting an internationally recognized certificate of compliance is to be retained in archived form and its status will be reflected in the record;
- (l) Making use of unique identifiers generated through the ABS Clearing-House to search and retrieve information on internationally recognized certificates of compliance;
- (m) Not including confidential data, as all information published in the ABS Clearing-House is publicly available and that through the act of publishing it, the publishing authority and the other users of the ABS Clearing-House confirm that the information published is not confidential;
- (n) Designed to be interoperable and to exchange information with other databases and systems;
- (o) Enabling the active participation of indigenous and local communities for the exchange of information related to traditional knowledge associated with genetic resources;
- (p) Supporting the exchange of information to assist Parties in building and developing capacity to facilitate implementation of the Nagoya Protocol;
- (q) Providing an opportunity for users to provide feedback on its development;
- (r) Building up its functions and activities in response to clear and identified demand, and based on further experience and available resources.

### ***C. Administration of the ABS Clearing-House***

5. The Secretariat shall administer the central portal of the ABS Clearing-House and, inter alia, have the following functions:

- (a) Developing and maintaining the central portal and central databases to ensure that the ABS Clearing-House is accessible, user-friendly, searchable, and understandable;
- (b) Identifying, reviewing and developing, as necessary, common formats for making information available to the ABS Clearing-House;
- (c) Providing technical assistance to Parties, other Governments, indigenous and local communities and other stakeholders for registering and retrieving information;

(d) Cooperating with relevant international, regional, subregional and national organizations and entities, as appropriate;

(e) Enabling information exchange, as appropriate, with other data providers to support the implementation of the Nagoya Protocol;

(f) Registering offline submissions of information in the ABS Clearing-House on behalf of Parties, upon request;

(g) Providing portable data storage devices containing information available through the ABS Clearing-House, when requested by Parties;

(h) Performing other administrative functions as requested by the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol.

***D. Role and responsibilities of national authorities with respect to the ABS Clearing-House***

6. The national focal point on access and benefit-sharing shall communicate to the Secretariat the designation of the publishing authority for the ABS Clearing-House. The functions of the publishing authority shall include the following:

(a) Authorizing the publication of all national records registered on the ABS Clearing-House;

(b) Actively participating in making information available on the ABS Clearing-House;

(c) Ensuring that the information made available on the ABS Clearing-House is complete, non-confidential, relevant and up-to-date;

(d) Liaising with the Secretariat regarding the development and implementation of the ABS Clearing-House;

(e) Facilitating networking and building capacity of national authorized users as well as other users of the ABS Clearing-House, including indigenous and local communities and other stakeholders.

7. The publishing authority can designate one or more national authorized users to assist in the preparation of draft national records.

***E. Technical oversight and advice***

8. The Secretariat may seek assistance from an informal advisory committee, constituted and coordinated by the Executive Secretary in a transparent manner, with a particular focus on providing technical guidance with respect to the resolution of technical issues arising from the ongoing development of the ABS Clearing-House.

***F. Reports on activities***

9. The Secretariat shall provide information on the operation of the ABS Clearing-House at each meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol. This information may include:

(a) The number, regional distribution and type of records made available through the ABS Clearing-House;

(b) The number of permits or their equivalent constituting internationally recognized certificates of compliance;

(c) The availability of information in the six official United Nations languages;

(d) Reports on collaborations between the ABS Clearing-House and relevant organizations for the exchange of relevant data;

- (e) Feedback on the operation of the ABS Clearing-House provided by users;
- (f) Measurement and analytics based on the external use of the ABS Clearing-House, including the number of visitors, to help understand website performance and effectiveness;
- (g) Information on operational costs, including funding and additional resource requirements.

**G. Periodic review**

10. The implementation and operation of the ABS Clearing-House shall be subject to periodic review, which should aim to include consultation with a wide variety of Parties and users of the ABS Clearing-House. Periodic reviews should then take place in accordance with Article 31 of the Nagoya Protocol.

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