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OPEN-ENDED AD HOC INTERGOVERNMENTAL
COMMITTEE FOR THE NAGOYA PROTOCOL ON
ACCESS TO GENETIC RESOURCES AND THE
FAIR AND EQUITABLE SHARING OF BENEFITS
ARISING FROM THEIR UTILIZATION

First meeting
Montreal, 6-10 June 2011
Agenda item 3

MODALITIES OF OPERATION OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE

Draft recommendation submitted by the Co-Chairs

The Intergovernmental Committee for the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising From their Utilization,

Noting the valuable experience of the Biosafety Clearing-House established under the Cartagena Protocol on Biosafety as well as of information exchange mechanisms under other multilateral environmental agreements,

Taking into account the priorities for a pilot phase of the Access and Benefit-sharing Clearing-House identified by the expert meeting on the modalities of operation of the Access and Benefit-sharing Clearing-House,

1. *Recommends* that the Access and Benefit-sharing Clearing-House be implemented in a phased manner, building up its functions and activities in response to clear and identified demand, taking into account ongoing feedback from users, in line with available resources, recognizing the importance of reaching common understanding on unresolved issues in the Intergovernmental Committee for the Nagoya Protocol;

2. *Recommends* that the first phase of the Access and Benefit-sharing Clearing-House be a pilot phase and *requests* the Executive Secretary to implement the pilot phase in accordance with the guidance set out in the annex, as soon as possible after the first meeting of the Intergovernmental Committee on the Nagoya Protocol and subject to the availability of resources;

3. *Invites* Parties, Governments and other donors to provide additional financial support to the Executive Secretary to enable the pilot phase to be implemented as soon as possible;

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4. *Requests* the Executive Secretary to:
 - (a) Report on progress in the implementation of the pilot phase of the Access and Benefit-sharing Clearing-House to the second meeting of the Intergovernmental Committee, including on the operational costs and maintenance of the pilot phase;
 - (b) Develop draft modalities of operation of the Access and Benefit-sharing Clearing-House, to be adapted to take into account experience acquired during the pilot phase, for consideration by the Intergovernmental Committee at its second meeting; and
 - (c) Explore opportunities for collaboration with partners and other data providers in the development of the Access and Benefit-sharing Clearing-House.

Annex

**GUIDANCE FOR THE PILOT PHASE OF THE ACCESS AND BENEFIT-SHARING
CLEARING-HOUSE**

Objectives

1. The objectives of the pilot phase of the Access and Benefit-sharing (ABS) Clearing-House are to:
 - (a) Establish an information-sharing mechanism pursuant to Article 14 that is simple, user-friendly, efficient, secure, flexible and functional;
 - (b) Provide an opportunity to elicit feedback on the development of the ABS Clearing-House; and
 - (c) Prepare for the later inclusion of additional information that will be relevant to implementation of the Protocol.

Information to be incorporated in the pilot phase of the Access and Benefit-sharing Clearing-House

2. The following mandatory information should be incorporated on a priority basis in accordance with Article 14, paragraph 2:
 - (a) Legislative, administrative and policy measures on access and benefit-sharing;
 - (b) Information on the national focal point and competent national authority or authorities;
and
 - (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.
3. The following additional information could also be incorporated, in accordance with Article 14, paragraph 3 while also noting Article 12, paragraph 1:
 - (a) Relevant competent authorities of indigenous and local communities, and information as so decided;
 - (b) Model contractual clauses;
 - (c) Methods and tools developed to monitor genetic resources; and
 - (d) Codes of conduct and best practices.

4. Other information that has been identified as particularly valuable to provide where available during the pilot phase through the Access and Benefit-sharing Clearing-House includes:

- (a) Explanatory information about the legislative measures, such as explanatory memoranda, or flow charts that describe the national access and benefit-sharing processes;
- (b) Information about any checkpoints established under Article 17 of the Protocol;
- (c) Capacity-building measures and activities;
- (d) Information currently available in the Convention on Biological Diversity's Access and Benefit-sharing measures database;
- (e) Provision for information on the contribution made by access and benefit-sharing measures to sustainable use and conservation of biodiversity, poverty alleviation, and the Millennium Development Goals;
- (f) Information on third party transfer arrangements where it is available to be incorporated into the internationally recognized certificate of compliance;
- (g) Affiliation of Parties to other agreements with regard to genetic resources at the sectoral, regional or subregional level.

Information management, including submissions and updates

5. The pilot phase of the Access and Benefit-sharing Clearing-House should make use of:

- (a) An Internet-based centralized portal to provide access to information;
- (b) A mechanism for non-electronic or non-Internet information for those countries that indicate their need to access such a mechanism, similar to the non-Internet mechanism currently used by the Biosafety Clearing-House;
- (c) Common formats to submit information; and
- (d) Controlled vocabularies within the framework of the Nagoya Protocol to facilitate entry and retrieval of the information being submitted.

6. Information in the ABS Clearing House should be managed according to the following language considerations:

- (a) The pilot phase of the ABS Clearing-House should initially be developed in English;
- (b) The ABS Clearing-House should be designed to support the six official United Nations languages at a later stage;
- (c) Primary data, being the substantive content of the ABS Clearing-House (e.g. a legislative measure), may be submitted in the original language;
- (d) The metadata, which describes the primary data (e.g. the type of legislative measure typically chosen from a controlled vocabulary built into the ABS Clearing-House), should be provided in a language supported by the ABS Clearing-House.

7. In order to manage information in the ABS Clearing-House, a number of roles and responsibilities have been identified, including:

- (a) Communicating with the Secretariat of the Convention on Biological Diversity on issues related to the ABS Clearing-House;
- (b) Making information available to the ABS Clearing-House; and

(c) Facilitating networking and the building of capacity between competent national authorities, indigenous and local communities and other stakeholders that would make information available to the ABS Clearing-House.

8. Duties of the ABS national focal point designated in accordance with Article 13, paragraph 1, could be expanded to incorporate the roles and responsibilities identified in paragraph 7, or a dedicated ABS Clearing-House contact could be appointed;

9. Duties of the competent national authorities designated in accordance with Article 13, paragraph 2, could be expanded to include making information available on permits or their equivalent issued to the Clearing-House, where appropriate and inform their ABS National Focal Point.

10. In accordance with Article 12, each Party, as appropriate, could consider establishing indigenous and local community contact points for the ABS Clearing-House to facilitate effective participation of the indigenous and local communities.

11. The ABS Clearing-House should allow Parties to amend or update submitted information in a way that preserves legal certainty, clarity and transparency in accordance with the Protocol, particularly in the case of a permit or its equivalent, if necessary and if mutually agreed, to reflect new circumstances relating to the utilization of the genetic resource. In such instances, the original permit or its equivalent should be retained in archived form.

Networking with existing mechanisms

12. The development of the pilot phase could include investigation of partnership opportunities with other data providers where these opportunities clearly support the objectives of the Protocol. These could include the International Treaty on Plant Genetic Resources for Food and Agriculture, the World Conservation Monitoring Centre of the United Nations Environment Programme (UNEP-WCMC) and taxonomic databases such as the Catalogue of Life and the Global Biodiversity Information Facility. In addition, enhancing collaboration with the World Intellectual Property Organization could be considered.

13. To support implementation of the Nagoya Protocol, the ABS Clearing-House could also provide access to other information resources, such as systems already making use of material transfer agreements to exchange biological resources (e.g., microbial culture collections), gene banks, legal information databases, and other aggregators of relevant information such as the UNU's Bioprospecting Information Resource databases. A list of such websites should be prepared to allow evaluation of their utility during the pilot phase.

Capacity-building

14. Parties should be encouraged to identify capacity-building needs to implement the ABS Clearing-House.

15. Indigenous and local communities should also be encouraged to identify their capacity-building needs with emphasis on enhancing the capacity of women within those communities in relation to access to genetic resources and/or traditional knowledge associated with genetic resources.

16. Taking into account the overall capacity-building needs to support the implementation of the Protocol, Parties should consider inviting donor agencies to fund capacity-building initiatives to enable Parties, indigenous and local communities and relevant stakeholders to effectively access and use the ABS Clearing-House.

17. Parties should consider identifying resources under national allocations from the GEF, or other funding agencies, for the development and implementation of the ABS Clearing-House with a view to address capacity-building needs of Parties, indigenous and local communities and relevant stakeholders.

18. Information on available capacity-building opportunities and resources (e.g., available funding, training, tools that could make information on the Clearing-House more accessible for users, etc.) should be made available through the ABS Clearing-House in its pilot phase.

19. Information supporting the implementation of the Protocol could also include best practices on the involvement of indigenous and local communities in implementing the Protocol (e.g., South-South models, training, etc.).

Reporting requirements

20. To assist in preparing reports on the activities of the ABS Clearing-House for review by the Parties in accordance with Article 14, paragraph 4, the following metrics are suggested:

- (a) The number, regional distribution and type of records made available through the ABS Clearing-House;
- (b) The number of internationally recognized certificates issued;
- (c) The number of visitors accessing the ABS Clearing-House to access information, the types of information being accessed, and the time spent looking at different types of information;
- (d) The availability of information in six official United Nations languages;
- (e) Reports of arrangements between the ABS Clearing-House and other institutions for the exchange of relevant data;
- (f) User surveys or other feedback on the operation of the ABS Clearing-House;
- (g) Measurement of external use of the ABS Clearing-House, for example links being made to the website, social aggregating analysis tools, etc.;
- (h) Operational costs, including funding and other resource requirements.
