Cristiana Paşca Palmer, PhD
Executive Secretary
Secretariat of the Convention on Biological Diversity
United Nations Environment Programme
E-mail: secretariat@cbd.int

August 2nd, 2019

Dear Dr. Paşca Palmer,

In response to CBD Notification 2019-025 "Submission of views and information further to decision NP-3/14 on Article 4, Paragraph 4, of the Nagoya Protocol", please find attached Canada's submission.

Best regards,
Carolina Caceres for
Basile van Havre

CBD National Focal Point

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NOTIFICATION
Submission of views and information further to decision NP-3/14 on Article 4, Paragraph 4, of the Nagoya Protocol

In response to CBD notification 2019-025, requesting the submission of:

(a) Information on how specialized international access and benefit-sharing instruments are addressed in their domestic measures;

(b) Views on the potential criteria contained in the study (summarized in the Annex to decision NP-3/14), taking into account Article 4, paragraphs 1 to 3, of the Protocol;

Canada would like to provide information and views on these topics.

(a) <u>Information on how specialized international access and benefit-sharing instruments are addressed in their domestic measures</u>

Canada actively engages in coordination at the national level regarding access and benefit-sharing issues addressed in different international fora, and views this as valuable in supporting coherence with respect to access and benefit sharing at the international level. Canada is a Party to various specialized international ABS instruments. In order to ensure congruent and practical Government of Canada positions across the different ABS fora, there is regular communication between the federal departments that lead on and/or are required to implement the different ABS instruments.

By way of specific examples, Canada implements the ABS measures of the *FAO International Treaty on Plant Genetic Resources for Food and Agriculture* mainly through the activities of Agriculture and Agri-Food Canada (AAFC). AAFC operates the Plant Gene Resources of Canada (PGRC), a national network of plant genetic resources institutions including a Seed Genebank in Saskatoon, Saskatchewan; a Clonal Genebank in Harrow, Ontario; and a Potato Genebank in Fredericton, New Brunswick. Due to its technical capacity, PGRC holds some material that is stored as a service to the Canadian Food Inspection Agency, for example Plant Breeders Rights reference samples that are not part of the genebanks. To avoid administrative confusion, PGRC will not accept material with restrictions for the collection. PGRC uses a donor agreement so that any donors of germplasm to PGRC are aware of the distribution practices. PGRC distributes all germplasm from PGR using the Standard Material Transfer Agreement of the ITPGRFA, i.e. for Annex I crops of the ITPGRFA and for all other material in the genebanks.

In addition, AAFC participates in the Treaty's Global Information System, as well as other information-sharing plant genetic resources databases and information systems. PGRC reports its germplasm holdings to the FAO WIEWS database (http://www.fao.org/wiews/en/) in the context

of the FAO Commission on Genetic Resources Second Global Plan of Action for PGRFA. PGRC makes all its data available using GRIN-CA (http://pgrc.agr.gc.ca/) and plans to migrate to GRIN-Global soon (https://www.grin-global.org/), and to link to Genesys (https://www.genesys-pgr.org/welcome) once the migration to GRIN-Global is completed.

Recognizing that existing ABS practices for food and agriculture differ significantly between subsectors, AAFC also participates in the development of other international ABS efforts, such as the FAO Commission on Genetic Resources for Food and Agriculture "Elements to Facilitate Domestic Implementation of Access and Benefit-sharing for Different Subsectors of Genetic Resources for Food and Agriculture,"[1] and seeks to incorporate these, as appropriate, domestically. In addition to the PGRC, AAFC holds 6 other national collections: Canadian Animal Genetic Resource (CAGR), Canadian National Collection of Insects, Arachnids and Nematodes (CNC), Canadian Collection of Fungal Cultures (CCFC), National Mycology Herbarium (DAOM), National Vascular Plant Herbarium (DAO) and Canadian Plant Virus Collection. It also has many working collections of bacteria from the agriculture environment. These collections are, *inter alia*, used to keep international markets open, to combat agriculture threats, save endangered species, identify alien invaders, provide access to wild species for breeding, combat illegal trade, and predict the impact of global climate change.

AAFC has also been involved in the development of best practices for implementation of biological control. AAFC contributed to the International Union for the Conservation of Nature (IUCN) document "The application of classical biological control for the management of established invasive alien species causing environmental impacts"[2] prepared for the CBD. As well, AAFC contributed to development of the International Organization for Biological Control (IOBC) Global Commission on Biological Control and Access and Benefit Sharing "Best Practices for the use and exchange of invertebrate biological genetic resources relevant for food and agriculture"[3]. AAFC uses these best practices in its own research to combat invasive alien species in Canada.

AAFC is actively involved in capacity-building and technology transfer; for example, PGRC organised a training workshop in Saskatoon in 2014 on GRIN-Global supported by the

[1] CGRFA (2016) ABS Elements: Elements to Facilitate Domestic Implementation of Access and Benefit-sharing for Different Subsectors of Genetic Resources for Food and Agriculture. http://www.fao.org/3/a-i5033e.pdf
[2] ISSG (2018). The Application of Biological Control for the Management of Established Invasive Alien Species Causing Environmental Impacts. Eds. Sheppard AW, Paynter Q, Mason P, Murphy S Stoett P, Cowan P, Brodeur J, Warner K, Villegas C., Shaw R, Hintz H, Shimura J., Hill, M and Genovesi P. Technical Report for the CBD. IUCN-SSG Invasive Species Technical Group. https://www.cbd.int/conferences/2018/cop-14/documents
[3] Mason PG, Cock MJW, Barratt BIP, Klapwijk JN, van Lenteren JC, Brodeur J, Hoelmer KA, Heimpel GE (2018) Best practices for the use and exchange of invertebrate biological control genetic resources relevant for food and agriculture. *BioControl* 63:149-154 DOI : 10.1007/s10526-017-9810-3

PROCINORTE/NORGEN Taskforce on genetic resources (https://www.arsgrin.gov/npgs/gringlobal/webpages/procinorte_2014sept.html).

Canada also implements the ABS measures of the *Pandemic influenza preparedness (PIP) Framework for the sharing of influenza viruses and access to vaccines and other benefits.* The Public Health Agency of Canada's National Microbiology Laboratory (NML) is Canada's National Influenza Centre, a World Health Organization (WHO) recognized laboratory under the PIP Framework. Consistent with the terms established by the PIP Framework, the NML transfers PIP biological materials to WHO Collaborating Centres and other WHO global influenza surveillance and response system participating laboratories using material transfer agreements.

(b) Views on the potential criteria contained in the study (summarized in the Annex to decision NP-3/14), taking into account Article 4, paragraphs 1 to 3, of the Protocol

Canada welcomes the work being done to explore criteria that could be used to identify what constitutes a specialized international ABS instrument in the context of Article 4(4) of the Nagoya Protocol, an important treaty provision.

Canada supports coherence among the various ABS instruments, and calls on all parties to the various ABS instruments, including the Nagoya Protocol, to strive for consistency amongst those instruments. Canada strongly believes that we should strive to avoid duplication in the application of ABS regimes aimed at similar objectives. Canada also strongly believes that all efforts must be made to ensure that the combined application of ABS instruments allows for practical and effective support of our objectives, without creating unwieldy burdens for users.

Building on the above, and recognizing the spirit of Article 4 of the Nagoya Protocol, Canada believes that several points made in the Annex to Decision NP-3/14 titled "Potential Criteria for Specialized International Access and Benefit-Sharing instruments in the Context of Article 4(4) of the Nagoya Protocol" (document CBD/NP/MOP/DEC/3/14), provide clarity to the content of Article 4(4).

However, Canada further notes that the criteria for specialized instruments under Article 4(4) should remain within the scope of that provision and align with its language. Canada is concerned that some of the proposed criteria under point 3 appear to go beyond the scope of Article 4(4) and, additionally, are insufficiently clear, which might make them problematic to apply. Ensuring that instruments in the context of Article 4(4) of the CBD are consistent with the objectives of the CBD and the Nagoya Protocol, rather than running counter to the objectives of either, is an important consideration. As such, the criteria should provide flexibility to ensure that any ABS instruments meeting that threshold would continue to qualify under Article 4(4).