

Template for the review of the document on scientific and technical information to support the review of the proposed goals and targets in the updated zero draft of the post-2020 global biodiversity framework

COMMENTS BY INTERNATIONAL CHAMBER OF COMMERCE

22 March 2021

<i>Contact information</i>		
Surname:	Yong-d'Hervé	
Given Name:	Daphne	
Government (if applicable):		
Organization:	International Chamber of Commerce	
Address:	33 avenue President Wilson	
City:	Paris	
Country:	France	
E-mail:	dye@iccwbo.org	
<i>General comments</i>		
Due to the short time frame, ICC has focused its comments on the aspects relating to ABS although it considers other aspects to also be of importance.		
<i>Specific comments</i>		
Page	Paragraph	Comment
9	Goal C 41-45	<p><i>Goal C. The benefits from the utilization of genetic resources are shared fairly and equitably</i></p> <p><u>General comments:</u> The text that accompanies Goal C, and the increase target in the associated Target 12, indicates that there is a need for more benefit sharing, despite recognizing in paragraph 42 that the actual or full extent of benefit sharing is not known.</p> <p>The text accompanying Target 12 notes that the aim is to facilitate benefit sharing - we suggest that this more nuanced approach also be reflected in the text accompanying Goal C. As the creation of benefits through access to and utilisation of genetic resources is a prerequisite to being able to share those benefits, we emphasize the importance of facilitating access and utilization to accompany this aim. This need is demonstrated by the increasing evidence in the published literature that public sector research activities are being unworkably delayed or prevented by complicated procedures associated with implementation of the Nagoya Protocol.</p>

		<p>For an increase target - as Target 12 is currently formulated - to be workable, there must be clear baselines for both access to and utilisation of GRs, as well as benefit sharing arising from that access and utilization .</p>
	<p>Para 42 and 43</p>	<p>Paragraph 42 states that “the information on the benefits derived from ABS agreements is limited” indicating that it is not widely available or reported by Parties, and recognizes that it is not possible to put an overall value on monetary and non-monetary benefits shared.</p> <p>Paragraph 43 then suggests that this lack of information, combined with revenue figures reported for “relevant sectors”, must mean that (monetary) benefit sharing is too low (“...likely a very small proportion of the total revenues...”). This is a significant assumption – in reality, the only sound conclusion that can be drawn from this text is that the collection of information on actual benefit sharing needs improvement to become a sound basis for decision making – the current draft indicators¹ may contribute to this <u>in part</u>.</p> <p>In addition, the statement in paragraph 43 that “almost three-quarters of new drugs are either derived from or are synthetic mimics of a natural products [sic]” is misleading in this context. For the reasons below, we suggest the removal of this misleading reference or that a detailed reasoning be provided to indicate which elements of the study could be used and which ones not, keeping in mind that most - if not all - figures might not fit to the CBD/Nagoya framework and therefore be of no use in the present context:</p> <ul style="list-style-type: none"> - The results in the referenced study cannot account for the changes in pharmaceutical R&D since the entry into force of the Nagoya Protocol (NP) in 2014: on average, it takes at least ten years for a new medicine to complete the journey from initial discovery to the marketplace, with clinical trials alone taking six to seven years on average. As the study analyses medicines which have already been granted market approval there is a time lag of at least 10 years between the R&D process and the market authorisation, meaning that the medicines analysed in September 2019 would have been under R&D before the entry into force of the Nagoya Protocol. Only a study commissioned from 2014 onwards (and with clearer, CBD-aligned categories) would provide an insight into the changes of pharmaceutical R&D. - The categories used by the authors of the study have not been designed in relation to, and in general therefore do not match with , the legal parameters used by the CBD and NP. The categories used in the study do not clarify whether the pharmaceutical product was created from CBD-relevant material or not. For example, drugs classified as biologics do not differentiate between human and non-human material, the first being excluded from the CBD and Protocol. - Furthermore, both paragraph 43 and the referenced study do not recognise the complex reality of ABS at the present time. Certain countries are not members of the CBD/NP or have chosen to promote innovation and do not require any benefit sharing, meaning that any GRs which are present and are accessed from their territory do not lead to any claim for benefit sharing. This issue is further complicated when one realises that the majority

¹ The three proposed headline indicators in CBD/SBSTTA/24/3 Annex 1.

		<p>of microorganisms are almost ubiquitous. For example, cyclosporine was isolated from the fungus <i>Tolypocladium inflatum</i>, which is found in many different countries in leaf litter and soil. Suggesting that ABS is due on such a product would be misleading, given that access to the organism would have been possible from any number of countries, including those without any access provisions.</p> <p>We have commented previously with recommendations for improving the indicators, so that they do not solely focus on the implementation of an ABS regime, and take a more holistic view of access and the resulting value creation.² We again emphasize that CBD Parties have the sovereign right to determine how to approach this, and an ABS regime is not the default option – there are a range of approaches that Parties may adopt.</p> <p>We also note that paragraph 42 reports that “some” of the benefit sharing reported by Parties are directed to the conservation and sustainable use of biodiversity, with this reflecting their sovereign discretion in this regard, and that “more” benefit sharing will not by default advance the objectives of the CBD or the Post-2020 Global Biodiversity Framework.</p>
	<p>Para 44</p>	<p>We completely agree with the text in paragraph 44 stating that there are various forms of benefit sharing, including monetary and non-monetary benefit sharing, and we have previously recommended that the indicators are expanded to enable a more holistic assessment of value creation. This would enable a more informed assessment as to whether or not benefit sharing is indeed “very small” and needs to be increased, as well as better recognition of the important role other forms of benefit sharing and how they are contributing to Goal C and the CBD objectives. A case in point is the commissioned study on digital sequence information demonstrating that the open provision and access/use of this information is a significant form of global benefit sharing.³ Prior to this assessment, the users and providers of DSI (as defined by that study) were not well understood and the extent of this form of benefit sharing underestimated – there is now general recognition that there is a need to preserve this practice. The private sector can also provide many examples of various forms of benefit sharing that are voluntary or incorporated into their business activities that directly contribute to the objectives of the CBD.</p> <p>Para 44 could be further strengthened by consideration and use of a consistent method to value or quantify aggregated non-monetary benefits so they can be better appreciated as valuable contributions compared with monetary benefit sharing. We propose the addition below:</p> <p><u>“...information to be aggregated <i>and systematically valued or quantified for its contribution to benefit sharing.</i>”</u></p> <p>Non-monetary benefits from the utilization of genetic resources can have significant value for biodiversity conservation and sustainable use, as well as for other SDGs. Better identifying, quantifying and leveraging these are likely to prove more impactful than focusing on purely monetary increases.</p>

² See: [https://chm.cbd.int/fr/api/v2013/documents/D3168E25-9DB6-A116-BA04-74B770D95739/attachments/ICC\(2\).pdf](https://chm.cbd.int/fr/api/v2013/documents/D3168E25-9DB6-A116-BA04-74B770D95739/attachments/ICC(2).pdf)

³ See: <https://www.cbd.int/dsi-gr/2019-2020/studies/#tab=1>

	<p>Para 45</p>	<p>Paragraph 45 states that proposed targets related to the integration of biodiversity values in planning processes (Target 13), improving biodiversity information (Target 19) and more equitable decision making (Target 20) will help create an enabling environment for Target 12.</p> <p>Conversely, an ABS target should also be designed to support these other targets, for instance, by encouraging the mainstreaming of biodiversity considerations, improving the availability and dissemination of quality information on biodiversity and supporting research and innovation which will support biodiversity goals. There is an opportunity under the Global Biodiversity Framework to better understand the value of non-monetary benefit sharing as an essential contribution to conserving biodiversity and promoting sustainable use.</p> <p>In Target 13, Para 93 mentions “multiple values of biodiversity” – this could take into account how non-monetary benefit sharing can contribute to the goals of the Global Biodiversity Framework.</p> <p>Target 18 makes reference to the importance of combining financing with capacity-building, technology transfer and scientific cooperation to meet the needs for implementing the post-2020 Global Biodiversity Framework. Target 12 should be designed to help the ABS system support such capacity-building, technology transfer and scientific cooperation.</p>
<p>22</p>	<p>Target 12 88-90</p>	<p><i>Target 12. By 2030, increase by [X] benefits shared for the conservation and sustainable use of biodiversity through ensuring access to and the fair and equitable sharing of benefits arising from utilization of genetic resources and associated traditional knowledge.</i></p> <p><u>General comments:</u> As indicated in the comments above on Goal C, the text of the Target is problematic due to the inclusion of an increase target when the access, utilization and benefit sharing baselines are unknown. The intention may be a “SMART” target, but it needs to be measuring meaningful information.</p> <p>The text that accompanies this target notes that the aim is to facilitate benefit sharing. We agree with this more nuanced aim in preference to that expressed in the text accompanying Goal C (i.e. increased benefit sharing), and suggest that the text of Target 12 is amended to better reflect this “facilitating” need.</p> <p>We also emphasize that facilitated benefit sharing must be accompanied by facilitated access and utilisation. (see also comments on Goal C).</p> <p>To take into account the need to facilitate access and utilization, which are necessary for the creation and sharing of benefits, we would suggest that Target 12 also include objectives relating to :</p> <ul style="list-style-type: none"> – The optimization of international, regional and national ABS mechanisms to ensure that they are effective and fit-for-purpose to support the creation and sharing of monetary and non-monetary benefits resulting from the use of genetic resources.

		<p>– The availability of up-to-date information in the ABS Clearing House on any applicable measures to regulate and/or facilitate access to genetic resources and to ensure the fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge. When Parties have exercised their sovereignty by deciding not to regulate access and benefit sharing in relation to genetic resources, this should also be clearly indicated on the ABS Clearing House to provide legal clarity.</p>
	Para 89	<p>This paragraph indicates that the main action required to reach an increased – but unknown - target is to apply “appropriate” ABS measures. Examples cited include national ABS legislation, the FAO International Treaty, FAO CGIAR and the WHO PIP Framework. As noted in a recent ICC paper⁴, the heavily administrative and restrictive approach of many ABS national regulations have been hindering rather than supporting the creation and sharing of benefits. As noted above in our comments on Goal C, there is increasing evidence in the published literature that public sector research activities – including those that contribute to biodiversity conservation - are also being hindered.</p>
	Para 90	<p>In the last sentence , “of” should be “or”. It is unclear what kind of measures should be taken to ensure or facilitate benefit sharing are envisaged here – it would be helpful to clarify this.</p>
27	Target 18 Para 108 and 110	<p>Target 18 recognises the need to implement a strategy for capacity-building, technology transfer and scientific cooperation to complement financial resources. Goal C and Target 12 relating to ABS should support such a strategy.</p> <p>ABS mechanisms are mentioned as having the potential to address the funding needs for implementing the Global Biodiversity Framework. While ICC supports the underlying rationale of ABS of fairness and equity in the sharing of benefits from genetic resources, monetary benefit sharing from ABS mechanisms cannot in itself be relied upon to be the principal source of funding for biodiversity conservation. Based on experience to date with existing benefit-sharing agreements, monetary benefit sharing from ABS can be expected to raise only a fraction of the funds necessary for biodiversity conservation, even if benefit-sharing obligations are expanded further. A broader approach to resource mobilization is necessary, and additional or other means of financing – as suggested in paragraph 109 - must be further explored to reach the goals of the CBD.</p> <p>The use of financing mechanisms as policy tools to incentivise sustainable use and biodiversity conservation, as part of efforts to mainstream biodiversity, should also be considered. Using incentives to steer behaviour away from activities that damage biodiversity, so as to encourage a change towards more sustainable uses and practices beneficial for biodiversity will reduce costs necessary to restore biodiversity.</p>
28	Target 19	<p>Target 19 emphasises the importance of making available quality information for the effective management of biodiversity through awareness raising, education and research.</p>

⁴ See [“Towards a new implementation strategy for access and benefit sharing”](#)

		In the same way as Target 18 specifically mentions ABS mechanisms, Target 19 should indicate that ABS mechanisms can support this target by supporting research and scientific information exchange and management.
--	--	---

Comments should be sent by e-mail to secretariat@cbd.int by 22 March 2021