



Convention on Biological Diversity

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Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources Second meeting

Montreal, Canada, 12–16 August 2024

Item 3 of the provisional agenda*

**Further development of the multilateral
mechanism for benefit-sharing from the
use of digital sequence information on
genetic resources, including a global fund**

Report of the Co-Chairs on the outcomes of their informal intersessional work**

Note by the Secretariat

I. Introduction

1. The Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources held its first meeting in Geneva from 14 to 18 November 2023 and elected Mphatso Kalembe (Malawi) and William Lockhart (United Kingdom of Great Britain and Northern Ireland) to serve as the Co-Chairs of the Committee of the Whole and further agreed that the Co-Chairs would continue their responsibilities at the second meeting of the Working Group and guide any intersessional work that might be required.

2. The Working Group also endorsed the proposal of the Co-Chairs for intersessional activities, comprising:

(a) Information-sharing activities by the Co-Chairs and the Secretariat, as needed and as appropriate;

(b) An open-ended informal advisory group, which would build on the experience of the previous informal advisory group on digital sequence information that met between September 2021 and October 2022, be inclusive, flexible, agile and considerate of the burden of time differences for Parties, and focus on the technical issues contained in the elements requiring further work, working through online discussions among Parties, indigenous peoples and local communities and stakeholders;

(c) Online informal regional consultations facilitated by the Co-Chairs, as well as informal exchanges to support the peer review of the draft reports for the commissioned studies referred to in paragraphs 22 (b) and (c) of decision 15/9;

* CBD/WGDSI/2/1.

** The present document is being issued without formal editing.

(d) Preparation, by the Co-Chairs, of a report on the outcomes of the intersessional work, based on the reporting methodology used by the previous informal advisory group on digital sequence information.

3. The present note comprises the said report on the outcomes of the intersessional activities, including a report on the work of the Informal Advisory Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources (sect. II), the information-sharing activities of the Co-Chairs and the Secretariat (sect. III) and the informal consultations and informal exchanges in the intersessional period (sect. IV).

II. Informal Advisory Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources

4. The Informal Advisory Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resource was created pursuant to the mandate of the first meeting of the Working Group, that is to address the issues on which further consideration was needed as identified in the annex to the report of that meeting.

5. The Informal Advisory Group was co-chaired by Mphatso Kalemba (Malawi) and William Lockhart (United Kingdom of Great Britain and Northern Ireland), with the technical and administrative support of the Secretariat.

6. Through notification 2023-130, issued on 1 December 2023, Parties, other Governments, indigenous peoples and local communities, and relevant organizations and initiatives were invited to nominate representatives for the Informal Advisory Group.¹

7. The Co-Chairs held a preparatory meeting in January 2024, and seven substantive meetings of the Informal Advisory Group were held between February and June 2024. The calendar of meetings and all expert or secretariat presentations were made available on the Convention's website.²

8. All meetings and discussions of the Informal Advisory Group were conducted in English. Each followed the same format comprising presentation/s followed by questions-and-answers and discussion among members of the Group. To foster frank and open discussion among members of the Group, only summary records of the meetings were kept and, except for the presentations, comments are not attributed to individual members. For each of the topics that were addressed, some key points that emerged from the presentations and discussions are summarized below; these points reflect a range of observations and views expressed and are not presented here as reflecting consensus within the Group.

Topic 1

DSI databases, research methodologies and products

9. Masanori Arita (DDBJ) and Guy Cochrane (SMBL-EBI) made a presentation titled "The International Nucleotide Sequence Database Collaboration (INSDC): the home of DSI". Some key points made include the following:

(a) The INSDC network comprises public databases that help to standardize data, comply with national data privacy laws, and adapt to the needs and requests of the research community;

(b) When uploading sequence data, it is now compulsory to enter the geographical location of the source of the genetic material from which the DSI is derived, where available;

(c) Public databases are a significant non-monetary benefit available for all to use;

¹ The full list of participants can be found [here](#).

² For further information see www.cbd.int/dsi-gr/iag-2024.shtml.

(d) The cost of running each of the three nodes of the INSDC doubles every two to three years due to the increase in sequencing globally.

10. Douglas Miano (University of Nairobi, nominated by the Government of Kenya) made a presentation titled “Workflow in generation, analysis and utilization of DSI data in research”. Some key points made include the following:

(a) The majority of steps involved in the use of DSI, from genetic resource collection to commercialization of a product, need external funding while a return on investment will be realized only if the research results in a product that is successfully commercialized;

(b) Furthermore, products developed from the use of DSI often depend on multiple sequences (including “consensus sequences” and synthetic sequences) rendering it difficult and unviable to trace the product to a specific sequence source.

11. In the ensuing discussion, the following key points were raised:

(a) Different users use and benefit from DSI in various ways which are not always predictable, such as is the case for successful commercialization;

(b) As one moves downstream in the value chain, fewer DSI are used but the value of each unit tends to increase owing to the use of numerous DSI upstream;

(c) Various perspectives were heard relating to whether a simpler or more complex system for contributions should be favoured. A simple system could involve a flat rate percentage of revenue from sectors or industry or activity. Some noted this could create a disproportionate burden on some DSI users. On the other hand, a more complicated system could involve more costs;

(d) Benefits could also take the form of data-sharing and other non-monetary benefits;

(e) It was suggested that there is a need to differentiate the use of DSI upstream of its deposition into a public database (where any use may be included in prior informed consent and MAT), and the use of DSI downstream of its deposition in a public database, as is the case for third party users (where there is no way for individual contracts for specific DSI to be enforced);

(f) Some participants expressed the idea that access to DSI through databases could be an opportunity to provide information to users on the benefit-sharing obligations (e.g. as terms and conditions for use of DSI). However, some reflected that it may not be feasible to implement this arrangement for the INSDC node hosted in the United States of America since it is not a Party to the Convention;

(g) Some recently developed business models use eDNA barcoding to support companies’ compliance and due diligence. These are 100-500bp short sequence data that require comparison in existing and accessible databases. Sequences deposited in public databases are useful for some uses but others, such as population-level diversity studies, require more extensive genomic information.

Topic 2

Data governance (including associated traditional knowledge)

12. Tim Hirsh (Global Biodiversity Information Facility-GBIF) made a presentation titled: “Data governance in an open access environment: the GBIF experience”. Some key points made include the following:

(a) The steps required to download data were simple and efficient and facilitated the monitoring of the use of the databases and the sharing of non-monetary benefits. This included steps around: data access, including compulsory user registration, data user agreements and data publisher agreements;

(b) Data in GBIF is free of cost but not free of responsibility; the FAIR and CARE principles are applied in concrete terms of transparency, collaboration, inclusiveness, innovation and

integrity. It was however noted that GBIF does not have the resources needed to enforce some of the elements users agree to when accessing the data.

13. Preston Hardison (Tebtebba Foundation) gave a presentation titled: “Open and Responsible DSI Data Governance and Addressing IP&LC Concerns: Not If But How”. Key points include the following:

(a) The sovereignty of indigenous peoples and local communities over their traditional knowledge and DSI is a right recognized in many countries, but it is nonetheless one that is difficult to enforce, in particular in the face of artificial intelligence developments;

(b) Potential principles for the operation of the multilateral mechanism to respect the rights of indigenous peoples and local communities over their traditional knowledge, traditional knowledge associated with genetic resources and genetic resources include:

- (i) Principle of beneficence: do no harm, ensuring societal, social and cultural safety and security;
- (ii) Principle of respect for rights, including the collective rights of indigenous peoples;
- (iii) Principle of conflict resolution (remedy for harm or violation of rights);
- (iv) Principle of consultation and prior informed consent/ free prior informed consent/ Artificial intelligence;
- (v) Principle of equity of relationship;
- (vi) Principle of full and effective participation;
- (vii) Principle of transparency and accountability;
- (viii) Principle of safeguards;
- (ix) Implementation of principles through capacity-building – two-way learning, mutual learning;
- (x) Principle of capacity-building – two-way learning, mutual learning.

14. Ann McCartney (Native BioData Consortium) made a presentation titled “Prioritizing Justice, Equity and Inclusion for Indigenous DSI Sharing”. Key points include:

(a) Balancing openness with sovereignty of indigenous peoples over their data can be done by operationalizing the CARE principles. Traditional knowledge and biocultural labels are human and machine-readable digital tags that can be associated with DSI in databases;

(b) Engagement notices or other types of disclosure notices also inform the user of the expected use and benefit-sharing associated with this data. Benefits can relate to equity, inclusion and justice, facilitation of non-monetary benefit-sharing, support to fair attribution and provenance information, recognition of indigenous rights, aid in support of local capacity-building and knowledge transfer, and operationalization of the Indigenous Data Sovereignty as well as the FAIR and CARE data governance principles.

15. In the ensuing discussion the following key points were raised:

(a) Indigenous peoples and local communities do not necessarily differentiate between a physical sample and its genetic sequence. As such, some safeguards could be granted at the database level in the form of a commitment of the user to acknowledge and attribute the traditional knowledge associated with the DSI in the outcome of the research;

(b) Many agreed that any decision on data governance should not impact the current data governance arrangement but should also encourage responsible data governance. The group discussed high-level guiding principles in line with the FAIR and CARE principles, and other

existing United Nations principles, such as the guidance of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and of the World Intellectual Property Organization (WIPO) on open science and on indigenous peoples' rights, respectively;

(c) It was suggested that in scenarios where DSI had been deposited in the database without due consultation with their consent, indigenous peoples and local communities could request the right to remove it from the database;

(d) Some participants proposed the consideration of a data access and benefit-sharing agreement at the point of download of the DSI, similar to GBIF noting that GBIF provides a positive example of a practical, transparent and simple citation request that is used broadly by the scientific community;

(e) Several participants questioned if such a mechanism would have an impact on safeguarding the rights of indigenous peoples and local communities, or on the sharing of benefits from the use of DSI, and whether or not it was a worthy effort for the Convention on Biological Diversity, in particular in the light of the tight timeline to operationalize the multilateral mechanism on benefit-sharing from the use of DSI;

(f) Some participants expressed the idea of the user choosing among data licences, some for non-commercial use, and some for commercial use. Similarly to GBIF, which is not in a position to regulate adherence to the norms users agree on at access, some participants questioned the ability of databases or of the Convention on Biological Diversity to enforce such licences or conditions of use. Others, however, suggested enforcement could rely on setting professional norms of good behaviour and the reputational risk for non-compliant data users ;

(g) The Group discussed the idea of federal data structures for DSI linked to indigenous peoples' sacred species and/or DSI associated with traditional knowledge. Some requested input from the INSDC and the International Indigenous Forum on Biodiversity (IIFB) on this topic. Many in the group pointed out that such a mechanism would need to operate across jurisdictions, recognizing that some international fora, such as the World Health Organization (WHO) did not consider traditional knowledge in their discussions on DSI. There could be an opportunity for awareness-raising.

Topic 3

Collaboration and cooperation with other approaches and systems – whom, what and how

16. Kathryn Garforth (Secretariat of the Convention) presented on other intergovernmental fora where negotiations related to benefit-sharing from the use of DSI are taking place. More specifically:

(a) The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), including the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System, which will meet twice this year and is mandated with submitting its outcomes to the 11th session of the Governing body in November 2025;

(b) WHO, which currently has two processes discussing benefit-sharing on DSI: (i) the Working Group on Amendments to the "International Health Regulations" who submitted its outcomes to the 77th World Health Assembly at the end of May 2024; and (ii) the Intergovernmental Negotiating Body to draft and negotiate a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response which is currently negotiating the "WHO pandemic agreement" including Article 12 on pathogen access and benefit-sharing, and also submitted its outcomes to the 77th World Health Assembly;

(c) United Nations General Assembly: an agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement) was adopted in June 2023. A process of signatures (by September 2025) and ratifications is now under way before entry into force;

(d) WIPO held an Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore Diplomatic Conference in May 2024 to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources. The text considered at the Diplomatic Conference primarily focuses on disclosure requirements for patent applications where the claimed invention is based on genetic resources or traditional knowledge associated with genetic resources; DSI is not explicitly mentioned in the text;

(e) The Commission on Genetic Resources for Food and Agriculture created a study on “The role of digital sequence information in the conservation and sustainable use of genetic resources for food and agriculture: opportunities and challenges” which has been since been finalized, published on the Access and Benefit-sharing Clearing-House, and will be made available to the Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources at its second meeting.

17. Amber Hartman Scholz (Leibnitz Institute) made a presentation on DSI harmonization: scientific considerations for a mutually supportive benefit-sharing mechanism. Some key points made include the following:

(a) The UNESCO recommendation on open science guidelines on data provides an example of a non-binding instrument setting a standard and common definitions, values and principles on open science. Overall, data are to be as open as possible, recognizing that access may need to be restricted in some cases, such as to protect human rights, or to respect intellectual property rights, personal information, or information related to threatened or endangered species, as well as for sacred and secret indigenous knowledge;

(b) Public databases, such as INSDC nodes, contain DSI data that cut across sectors of research and international forums (crops, livestock, marine, land organisms, viruses, bacteria, etc.). Multiple benefit-sharing mechanisms would risk giving rise to a fragmentation of databases. An alternative would be a single mechanism with options for funding streams into and out of the fund to serve the various forums dealing with DSI.

18. In the ensuing discussion the following key points were raised:

(a) Many suggested that the DSI benefit-sharing mechanism should strive to avoid database fragmentation, noting it would multiply the cost of maintaining the database and curating the data, increase the potential for data duplication, and negatively impact research and innovation;

(b) Some argued that there already are multiple databases which researchers utilize, and that ensuring the open access of databases was more important than the number of databases;

(c) Some participants argued that a common governance mechanism could help avoid loopholes, and associated benefit-sharing avoidance;

(d) Others suggested that it is difficult to imagine that one structure could encompass all intergovernmental organizations and that the varying membership among instruments could a challenge;

(e) One member mentioned that including a plurality of worldviews and perspectives in the shaping of the common governance and potential terms of access and use of data was crucial to Indigenous Peoples and local communities;

(f) Some members of the Informal Advisory Group noted that track and trace was not a feasible way to use databases and indicated their preference therefore for a decoupling of access and benefit-sharing in the mechanism.

Topic 4

Legal considerations

19. Kathryn Garforth (Secretariat of the Convention) presented three main approaches to creating obligations for sharing the benefits from the use of digital sequence information on genetic resources:

(a) A decision of the Conference of the Parties: while not legally binding in and of itself, a decision of the Conference of the Parties can be highly influential in affecting behaviour, can enable ambition, quickly implemented;

(b) Treaty: legally binding on the States that consent to be bound by it but would require a lengthy process of negotiation, adoption, ratification and implementation;

(c) Contract: obligations can be created through a contract agreed to by two (or more) parties, is legally-binding on the parties to the contract. Clickwrap agreements on website use are also a form of contract.

20. Daphne Yong d’Herve (International Chamber of Commerce) made a presentation titled “Business engagement in the multilateral benefit-sharing mechanism: incentives/disincentives”. Some key points made include the following:

(a) Businesses calculate risks and potential benefits before starting a new research or innovation project, and therefore favour a mechanism that is simple, workable, effective and proportionate, provides legal certainty and is aligned with scientific and business realities;

(b) The creation of a multilateral mechanism that overlaps with national obligations, requires tracking and tracing, or creates multiple regimes for different DSI in databases would be a disincentive to investments in research and innovation using DSI;

(c) Industry is of the view that a technology-agnostic system would future-proof the mechanism, and that the inclusion of genetic resources is encouraged as it would simplify the system and lead to more benefit-sharing.

21. In the ensuing discussion the following key points were raised:

(a) Recalling the mandate from decision 15/9 to operationalize the benefit-sharing mechanism for benefit-sharing from the use of DSI and its global fund at the sixteenth meeting of the Conference of the Parties, the legal status of such agreement was considered. It was noted that, while decisions of the Conference of the Parties are not legally binding like a treaty, they are enforceable at the national level. Some members considered that it would be difficult to ensure legal certainty in a non-binding system. Legally binding contracts were also considered, specifically relating to contracts with entities operating in non-Parties;

(b) The Informal Advisory Group noted that many of the incentives for industry participation in the benefit-sharing mechanism were already encompassed in the principles contained in paragraphs 9 and 10 of decision 15/9.

Topic 5

Non-monetary benefit-sharing

22. Natalie Feltman (South Africa) presented benefit-sharing examples in South Africa, describing the rooibos tea’s benefit-sharing agreement, the honeybush and the baobab conservation at the community level as successful examples. Some key points made include the following:

(a) That the dichotomy between monetary and non-monetary is artificial;

(b) The annex to the Nagoya Protocol, on non-monetary benefits, was explained with regard to the different benefits that are most appropriate at different stages of the research and development process;

(c) Indirect benefits, such as investments in education programmes, building and maintenance of educational infrastructure, building community ownership of the projects and target species, can all be positive for conservation in the long term. In some cases of small groups in specific locations, direct monetary benefits can have more impact than the financing of specific projects;

(d) Standardized benefits options, legally binding contracts and monitoring are elements that can improve outcome;

(e) Indicators for the monitoring of non-monetary benefits could include: number of research and development results shared; number of collaborations in scientific research; number of participations in product development; number of transfers of technology; number of people trained; number of jobs created; number of joint ownerships of relevant intellectual property rights;

23. Martha Cepeda (DSI Scientific Network) gave a presentation titled “Biodiversity Research Gives Back: Non-monetary Benefit Sharing in Colombia and Beyond”. The presentation explored:

(a) The chocolate market in Colombia as an example of a multi-faceted project which uses DSI: a first contract contains a clause for research collaboration, technology transfer, training for resource providers, and training for the communities while a second contract focuses on the genetic resources, with a clause for the training of workers on cocoa fermentation, on the sustainable use of cocoa trees, the support to communities to develop businesses and ensure livelihoods, and the collaboration and co-authorship of research articles;

(b) CABANA, a regional initiative for bioinformatics training in Colombia.

24. In the ensuing discussion, the following key points were raised:

(a) Many considered that improving capacity and technology transfer should be one of the objectives of a multilateral mechanism, so that any obligation to share monetary benefits should also include an obligation to share non-monetary benefits;

(b) A list was proposed which related to listing non-monetary benefits. It included: making the product available in the public domain; licensing of products free of charge; free distribution of products in social interest programmes; joint ventures. Indirect benefits were also proposed, such as education or birth control;

(c) Participants discussed whether the Conference of the Parties might establish a fixed list of non-monetary benefits in its decision. An alternative to a list could be a series of objectives that Parties, users, stakeholders, indigenous peoples and local communities, or a facilitating body of the multilateral mechanism use to decide which non-monetary benefit is best suited to specific circumstances;

(d) The importance of mapping needs in terms of capacity-building, technology transfer and other non-monetary benefits was noted. Valuation of some non-monetary benefit-sharing activities could help in reviewing the part of the effectiveness of the multilateral mechanism with regard to non-monetary benefit-sharing;

(e) Participants recognized a need to monitor and evaluate the projects funded by the global fund. The idea of a knowledge platform was proposed, which would both house a list of DSI-related products and services capacity needs, as well as report on those resulting projects through standard mutually agreed obligations;

(f) Some in the group spoke of the need to conceptualize benefits at the national, subnational, and/or local governments, as well as for women and youth.

Topic 6

Disbursement of funds

25. Charlotte Germain-Aubrey (Secretariat of the Convention) gave a presentation in which she summarized the modalities for disbursement of funds as presented in section II.B. of the synthesis of

views pursuant to decision 15/9 (CBD/WGDSI/1/2/Add.1) and section II.B. of the lessons learned from other multilateral funding mechanisms (CBD/WGDSI/1/2/Add.2/Rev.1).

26. In the ensuing discussion the following key points were raised:

(a) Various streams of funding were discussed: competitive project-based funding; direct allocations to developing countries; funding of non-monetary or in-kind benefits, such as technology transfer; long-term funding of conservation organizations; and guaranteed and steady stream of funding to indigenous peoples and local communities, giving them direct access to funds;

(b) The Group considered a potential criterion of disbursement, which included: country need; biodiversity richness, uniqueness or vulnerability; development level; presence of indigenous peoples and local communities or conservation organizations activities in country. In all cases, funding should be predictable and timely;

(c) Some participants voiced the opinion that not all criteria and formula need to be decided in a decision of the Conference of the Parties as it would be difficult to change and adapt. Transparency, however, is key and women and youth, among others, should have a role;

(d) Some participants considered using geographical data in databases as one of the criteria for the level of funding allocated, while others considered it burdensome and were concerned that it would exacerbate inequities as it would penalize those who do not have the capacity to contribute to databases in the first place. In addition, it would not solve the issue of DSI found in multiple countries, locations, organisms, or in migratory species. Despite a lack of comprehensive data on geographical origin in databases, some suggested that the data that is geotagged is a good proxy for the entire database;

(e) Some participants considered that letting Parties who have a domestic legislation on benefit-sharing from the use of DSI receive funds from the multilateral mechanism would equate to a double payment to users, and a double benefit to the providers. Others suggested that it could be allowed for a determined and limited time, until the multilateral mechanism has proven its efficiency, at which point those Parties still enforcing national legislation might be excluded from receiving money from the global fund. Some also mentioned that while concern for double payment is legitimate, potential avoidance of payment should also be precluded.

Topic 7

Governance of the multilateral mechanism, including fund governance and host

27. Jennifer Corpuz Tauli (IIFB) gave a presentation titled: “Fund Governance: proposals to ensure direct access to Indigenous Peoples and local communities”. The presentation considered:

(a) The importance of Indigenous Peoples and local communities in the conservation of the natural world, increasing the value of their intact lands and the interest of investors in them, noting that indigenous peoples and local communities currently receive proportionally less official development assistance funds than other groups;

(b) Proposing full partnership in the global fund and its governance, Indigenous Peoples and local communities need the right to govern themselves and their lands and waters with the help of land tenure, and schools and institutions to transmit traditional knowledge. Since indigenous peoples and local communities are very diverse, a fair presentation of their diversity in a governing body was deemed essential;

(c) There should be direct access to funds through indigenous peoples and local communities’ own representative institutions, organizations, or fiscal sponsors they have identified through their own community process.

28. Andrew Deutz (TNC) gave a presentation titled “Design Options for a DSI Mechanism Fund” discussing the Global Environment Facility, the Global Biodiversity Framework Fund, the Green Climate Fund, the Land Degradation Neutrality Fund and One Percent for the Planet. He noted that

any fund must balance and trade-off fund volume (how much money?), velocity (how fast can money move?), and voice (who and how many stakeholders have a say in decision-making?)

29. In the ensuing discussion, the following desirable criteria were discussed in relation to how to choose a fund host:

- (a) Quick operationalization;
- (b) Clear rules of governance;
- (c) Experience in supporting relevant programming or disbursement model, with the ability to fund projects and/or provide automatic allocations, depending on the model selected;
- (d) Ability to accept funding from the private sector and donations;
- (e) Ability to record and report who has provided what, and the potential to request those who have not paid but should do so;
- (f) Ability to Accommodate a governing body with potentially equal representation from all five regions of the United Nations and full membership or observer status for indigenous peoples and local communities, women, youth, industry, other stakeholders' representatives, or report to the Conference of the Parties directly;
- (g) Ability to support indigenous peoples and local communities directly, including those in the global North;
- (h) Regarding indigenous peoples and local communities' safeguards in the governance of the mechanism and the fund – several principles were proposed:
 - (i) Considering indigenous peoples and local communities as rightsholders and partners;
 - (ii) Following a rights-based approach;
 - (iii) Aiming at a transformational and holistic support;
 - (iv) Taking into account the diversity of regional and country contexts;
 - (v) Ensuring consultation, participation, and free, prior and informed consent;
 - (vi) Ensuring inclusion and equality for all.
- (i) The World Bank Social Framework, Performance Standard, and the United Nations Declaration on the Rights of Indigenous Peoples were all other considerations.

30. In relation to the Global Environment Facility (GEF) as a potential host of the fund, the following points were made:

- (a) The ability to fund indigenous peoples and local communities in developed countries or a change to the composition of the governing body for a specific fund would likely require an amendment to the GEF instrument. The next GEF Assembly, scheduled for 2026/27 is likely to be where any such an amendment could be approved;
- (b) GEF currently takes guidance from the Conference of the Parties. For the DSI global fund, it should be entirely accountable to the Conference of the Parties.

31. When considering other hosts of the fund, the following was considered:

- (a) Mixed views were held on private banks hosting the fund. Previous examples include Mirova hosting the Land Degradation Neutrality Fund, investing in projects with potential financial return;
- (b) If no investment or programming decisions are taken by the fund itself, a slimmed down host fund could be considered. This host would simply disburse funds according to a set of

instructions from the Conference of the Parties or the multilateral mechanism governance as a formula. Suggested entities included: the Secretariat of the Convention on Biological Diversity, assuming an appropriate investment in additional resources; the “1% for the Planet fund” and its experience supporting global philanthropic conservation programmes; and the World Resource Institute.

Topics 8 and 9

Compatibility with the Nagoya Protocol and the Convention on Biological Diversity, and alignment with paragraphs 6 to 10 of decision 15/9

32. Charlotte Germain-Aubrey (Secretariat of the Convention) made a presentation recapping previous discussions under the Convention on this topic as reflected in decision 15/9, the synthesis of views pursuant to decision 15/9, and the report of the first meeting of the Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources.

33. In the ensuing discussion the following key points were raised, and suggestions made:

(a) Consideration was given to the potential for a list of species, places, (or other labelled characteristics of DSI) that would be treated differently to the rest of the multilateral mechanism and for which DSI extraction would require prior informed consent and the regulation of the deposition of DSI in specific databases. One participant compared this to the world heritage sites, with each region choosing around 10 species of sacred significance to compose a shortlist. Another participant agreed that countries should show restraint in the list of carve outs from the multilateral mechanism;

(b) Some participants argued against an exception for pathogens noting it could fragment the DSI multilateral mechanism if pathogens were excluded;

(c) In relation to endemic species, resulting benefits from the use of DSI could go back to the country of origin of the genetic resource. However, most agreed to keep the mechanism simple as many users use DSI from different genetic resources in their research and products. Several participants pointed out that the implementation and regulation of the use of those DSI from endemic genetic resources would fall on the country, not on the database or repository;

(d) One participant proposed that if a single, specific DSI with identifiable origin was used in a product, then the contribution to the multilateral mechanism would be a certain rate. If more than one DSI, or some from unidentifiable origin, then this contribution would double, therefore encouraging systematic disclosure of the use of those DSI that are specific to a country, with this benefit going directly to that country of origin. Some considered that it would be difficult for the multilateral mechanism to channel benefits to countries of origin of the genetic resource as geotagging is so inconsistent in the public databases. Another participant also pointed out that it would penalize those countries that do not have the capacity to sequence their own biodiversity at scale;

(e) National access and benefit-sharing legislation could regulate the benefit-sharing from the use of the DSI through prior informed consent and mutually agreed terms between the point of extraction of the DSI from the genetic resources and up the point of deposition in a public database, if such deposition is authorized in the mutually agreed terms. Once in the public domain, the benefits shared from the use of DSI would fall under the multilateral mechanism. It would be important that the distinction between the two coexisting mechanisms to be very clear for users;

(f) Some participants considered that Parties who regulate the use and deposition of DSI in the public domain should not benefit from the multilateral mechanism, as their domestic legislations create a risk of jurisdiction shopping. Several participants proposed a transition period in which Parties could choose to join the multilateral mechanism and give up their national access and benefit-sharing legislation;

(g) Part of the Group considered that in the context of national jurisdictions and the Nagoya Protocol, there is no risk of double payment, just payment for two separate things: the genetic resource and the DSI. Users pay for access to Genetic Resources through mutually agreed terms. Then, the consumer pays for a product in the end. These parallel systems could increase the cost of compliance for users. Setting a timeline for Parties that already have a national legislation regulating DSI to convert to the multilateral mechanism could ease this transition, and it would allow for the multilateral mechanism to prove itself efficient first;

(h) Some participants discussed whether or not the decision to join the multilateral mechanism would impede on Parties' exercise of their sovereign rights over the DSI extracted from their genetic resources. Some stated that the multilateral mechanism would be a different expression of sovereign rights over the DSI extracted from their genetic resource;

(i) Participants discussed their experiences of cumbersome processes to access and use genetic resources. Still, participants in the group considered preferable to first focus on a multilateral mechanism for DSI only. It was also noted that the mechanism could be designed in an adaptive and phased manner to allow a future extension to genetic resources. Genetic Resources not falling under the Nagoya Protocol or a national legislation could be considered first;

(j) The Group discussed the possibility to use customary laws and community protocols for the use of DSI similar to the arrangements under the Nagoya Protocol. However, one participant explained that several communities have developed protocols to access their genetic resources and it has yielded very little benefits as it makes it harder for users to comply, and therefore unless their biodiversity has exceptional potential to them, they will not use it.

Topic 10

Trigger points for contribution

34. Kirsty Bryant (Secretariat of the Convention) gave an overview focusing on trigger points for benefit-sharing. The presentation considered:

(a) The rationale behind considering only some of the options that existed before the fifteenth meeting of the Conference of the Parties on a solution on DSI, as well as the existing language on trigger points from the report of the first meeting of the working group, the synthesis of views pursuant to decision 15/9;

(b) The lessons learned from other international funding mechanisms and the draft study focusing on this study.

35. In the ensuing discussion the following key points were raised:

(a) The Group agreed on the importance to consider not just the benefits that arise from each trigger point but also their feasibility and practicality;

(b) Some participants considered that as public databases are usually subsidized by government funding, a trigger at access may impact on this;

(c) Contributions to the fund could be considered to be part of Target 19, which seeks to mobilize \$200 billion per year for biodiversity from all sources. It was noted that the scale of funding from benefit-sharing from the use of DSI should make a "significant" contribution to Target 19. Participants agreed that further conversations are needed on what numerical value is "significant".

Topic 11

Possible approaches and indicators for monitoring the sharing of benefits from the use of digital sequence information on genetic resources through a multilateral mechanism

36. In its recommendation 26/1, the Subsidiary Body on Scientific, Technical and Technological Advice invited the Co-Chairs of the Committee of the Whole to facilitate a discussion on possible approaches for monitoring the sharing of benefits from the use of digital sequence information

through the multilateral mechanism and in the context of Goal C and Target 13 of the Framework. An additional session of the Informal Advisory Group was held to facilitate this discussion.

37. Jillian Campbell and Beatriz Gomez (Secretariat of the Convention) presented on the process of the monitoring framework within the Subsidiary Body on Scientific, Technical and Technological Advice, and gave context as to how the monitoring efforts from Parties through monitoring plans, national reporting will feed into the global review at the seventeenth meeting of the Conference of the Parties. Focusing on Goal C and Target 13 on benefit-sharing, they presented the current state of the headline (outcome) and binary (process) indicators.

38. Melania Muñoz-García (Leibniz Institute DSMZ) presented a study commissioned by the Secretariat of the Convention, which she co-authored with Alejandro Lago and Amber Scholz “ABS Headline indicators for KMGBF”. The study focuses on headline indicators C.1³ and C.2.⁴ For C.1 they propose a disaggregation of the indicator by instrument in order also serve as a review of each of other benefit-sharing instruments such as the Nagoya Protocol, the multilateral benefit-sharing mechanism from ITPGRFA and the multilateral mechanism on DSI under the Convention on Biological Diversity. For C2, they propose an aggregation of the non-monetary benefits from the Annex to the Nagoya Protocol into five categories cross-cutting across instruments, and a disaggregation of this indicator by access and benefit-sharing instrument.

39. The Co-Chairs recalled the mandate of the Working Group regarding monitoring and evaluation and review of effectiveness (decision 15/9, annex I) and the decision of Parties to review the effectiveness of the multilateral mechanism at the eighteenth meeting of the Conference of the Parties. They proposed elements of a review based on the criteria from paragraphs 9 and 10 of decision 15/9, as follows:

- (a) Amount of funds mobilized through the multilateral mechanism;
- (b) Information on activities supported by the fund;
- (c) Non-monetary benefits shared;
- (d) Cost of operating the multilateral mechanism;
- (e) Impact (if any) of the fund on the operations of Nagoya Protocol;
- (f) Impact of the multilateral mechanism on rights of indigenous peoples and local communities, including with respect to associated traditional knowledge;
- (g) Impact of the multilateral mechanism on operations of public databases;
- (h) Impact of the multilateral mechanism on operations of other access and benefit-sharing instrument;

40. In the ensuing discussion the following key points were raised:

(a) Some participants noted that (a) and (c) could be used in the monitoring framework to measure progress towards Goal C and Target 13. In addition, (f) was noted as potentially difficult to measure. Further comments were made around the need to consider research and innovation within the proposed elements, as well as a broader focus on the impact of the multilateral mechanism;

(b) The group generally supported C.1 and C.2 as appropriate headline indicators and agreed that it would be beneficial to include a disaggregation of both indicators by access and benefit-sharing instrument.

³ C.1: Monetary benefits received in accordance with applicable internationally agreed access and benefit-sharing instruments.

⁴ C.2: Non-monetary benefits arising from applicable international access and benefit-sharing instruments.

(c) Participants voiced the opinion that it was too early to give complete views. Some had the view that using indicators 13.2⁵ and 13.2 Alt (a)⁶ as a basis for proposing an option may work best and that a potential new guiding question could cover Parties' ability to generate and use DSI or whether Parties' domestic access and benefit-sharing legislation has prevented the upload of DSI into public databases.

III. Information-sharing activities by the Co-Chairs and the Secretariat

41. The Secretariat and the Co-Chairs have responded to all requests, including those from Parties, industry organizations, and intergovernmental organizations, to provide briefings on the ongoing negotiation process and issued raised.

Informal discussions held in Nairobi on 19 May 2024

42. The Co-Chairs convened informal discussions on digital sequence information on genetic resources on 19 May 2024, in between the twenty-sixth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice and the fourth meeting of the Subsidiary Body on Implementation. The discussions, held in English, were open to all. Over 140 participants attended in person and approximately 75 attended online. Attendees included representatives of Parties and non-Parties to the Convention, representatives of indigenous peoples and local communities, and representatives of organizations and stakeholders.

43. Delegates were invited to use this opportunity for an informal exchange with the view to supporting the further development of modalities to operationalize the multilateral mechanism for benefit-sharing from the use of digital sequence information on genetic resources, to be finalized at the sixteenth meeting of the Conference of the Parties.

44. The discussion was opened by the Co-Chairs, Mphatso Kalembe and William Lockhart, who, together with Taukondjo Shikongo of the Secretariat, made introductory remarks.

45. A number of presentations were made, as follows:

(a) The Secretariat outlined the process on DSI and the Co-Chairs presented their mandate for the intersessional period leading to the second meeting of the Working Group, including some preliminary comments on the work of the Informal Advisory Group, as well as their work with informal consultations and exchanges;

(b) The Meridian Institute, in collaboration with the Access and Benefit-Sharing Capacity Development Initiative, updated the meeting on the informal work that they are leading. Gaute Hanssen gave some opening remarks and Hartmut Meyer and Lily Weissgold presented their work so far, their plans for further meetings and knowledge products. They noted that they had observed some positive convergence within regions and with industry, with all willing to participate in the multilateral mechanism under the right conditions for each group, and with indigenous peoples and local communities desire to access funding directly from the global fund;

(c) The Secretariat reviewed the mandate for the studies on DSI that emanated from paragraph 22 (b) of decision 15/9. The Secretariat had partnered with the United Nations Environment Programme World Conservation Monitoring Centre (UNEP-WCMC), with the support of KPMG, for these studies. The draft studies had been released for peer-review a few days earlier through [notification 2024-048](#). The Secretariat encouraged participants to submit their comments in time for the revised studies to be available in time for the second meeting of the Working Group;

⁵ [13.2: Does your country have legal instruments, administrative and policy framework or measures to ensure the fair and equitable benefit-sharing of digital sequence information on genetic resources?]

⁶ [13.2. Alt (a): Does your country receive monetary benefits from the utilization of digital sequence information on genetic resources?]

(d) The consultants from KPMG presented the draft study methods and results. Some questions were raised around the issues noted below in para 46.

(e) Lastly, Melania Munoz-Garcia presented a study on access and benefit-sharing indicators for the Kunming-Montreal Global Biodiversity Framework. The study, which she had co-authored with Alejandro Lagos and Amber Hartman Scholtz, had been commissioned by the Secretariat of the Convention on Biological Diversity and made available for the twenty-sixth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice.⁷ The presentation covered the headline indicator for Goal C of the Framework.

46. A number of issues were raised in the light of the presentation of the studies by KPMG, regarding the need for, and practicality of a tracking and tracing system that would follow specific DSI and its users in research for the commercialization of products, the need for a more *quantitative cost-benefit analysis* in the draft study, and the desirability of reaching beyond the use of the English language for interviews and the literature review.

47. In the afternoon, the discussion was open to all in-person participants and several points were raised:

(a) Some participants called for more capacity-building in some regions, in particular in the Global South, maybe in the form of workshops specifically on DSI. The Secretariat and the Co-Chairs responded that they are open and available to make presentations on the process on request;

(b) A few participants shared their positive experience with having regular meetings with other ministries and parts of their Government to discuss DSI and get a more complete perspective from industry, research, or finance, as well as colleagues working in different international forums, such as but not limited to the Food and Agriculture Organization of the United Nations, WHO, BBNJ or WIPO;

(c) One stakeholder raised a question on how to consider eDNA. This particular type of DNA sequence is very short and targeted for the use of identifying organisms at the genus or species level only. That short sequence has no other use, and is never part of a product per se, and is typically used in appraisal or compliance with regulation by industry. Participants wondered how to ensure benefits are shared;

(d) One participant congratulated the inclusion and coverage of traditional knowledge and the consideration for indigenous peoples and local communities in the studies and the work on DSI in general but was concerned that women and youth should also be considered.

48. The Co-Chairs asked those in the room how they and the Secretariat could help them prepare for the second meeting of the Working Group. Participants welcomed the question and the following key points were made:

(a) There seems to be a high level of convergence on the principles guiding the future multilateral mechanism on benefit-sharing from the use of DSI. What is lacking now is an agreement on the structure. Participants agreed that it would be good for the Co-Chairs to present options that could bring those areas of convergence together in a practical, adaptive and pragmatic proposal, with operative text;

(b) A few participants raised the concern of respect of the sovereignty of Parties over their genetic resources and wanted a proposal or proposed options from the Co-Chairs to ensure that domestic legislations were respected and compatible with the new mechanism on DSI;

(c) Several participants voiced the need to move forward and not go back or undo the spirit and intent of the content and substance of decision 15/9. They asked the Co-Chairs to structure the

⁷ [CBD/SBSTTA/26/INF/12](#).

Working Group to ensure all Parties move forward in operationalizing the mechanism on DSI by maintaining the momentum, remaining ambitious and proposing options;

(d) Lastly, one participant advised the Co-Chairs to make sure they reach out and communicate with the Government of Colombia as the president of the sixteenth meeting of the Conference of the Parties after the second meeting of the Working Group, to facilitate an efficient uptake of DSI at the sixteenth meeting of the Conference of the Parties.

IV. Co-Chairs' informal consultations and exchanges

49. The Co-Chairs have taken part in bilateral discussions, formally and informally, with many of the participants in informal and formal meetings of the Convention on Biological Diversity, in informal activities of partners, with their own and other Governments. They have also reached out and had discussions with chairs and co-chairs of other groups and committees established under the Convention, groups in other international fora discussing DSI, and with key stakeholders that might not be part of the Informal Advisory Group or other processes under the Convention.