



## 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

### Synthesis of information for the further development of the multilateral mechanism established under decision 15/9, including elements of a draft recommendation

Note by the Secretariat

## I. Introduction

1. At its first meeting, the Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources identified possible elements of a multilateral mechanism for benefit-sharing from the use of digital sequence information on genetic resources (DSI), including a global fund.<sup>1</sup> The elements were divided into those on which there was potential convergence and those on which there was a need for further discussion.

2. At the same meeting, the Working Group agreed to further intersessional work to be carried out until the present meeting, including information-sharing activities, informal consultations and exchanges and discussions in an informal advisory group. It also decided that the intersessional work would be guided by the Co-Chairs of the Committee of the Whole whom it had elected at its first meeting.

3. Further to that mandate, the Co-Chairs undertook various informal intersessional activities, including meetings of an informal advisory group,<sup>2</sup> composed of representatives of Parties (61), non-Parties (1), indigenous peoples and local communities (6), stakeholders (33) and other intergovernmental organizations (5). The informal advisory group met seven times between January and June 2024 and focused its discussions on the possible elements of the multilateral mechanism, in particular those identified as needing further discussion. In addition, the Co-Chairs held informal discussions in Nairobi on 19 May 2024, between the meetings of the subsidiary bodies of the Conference of the Parties. Lastly, the Co-Chairs led some information-sharing activities, as well as

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\* CBD/WGDSI/2/1.

<sup>1</sup> CBD/WGDSI/1/3, annex.

<sup>2</sup> See [www.cbd.int/dsi-gr/iag-2024.shtml](http://www.cbd.int/dsi-gr/iag-2024.shtml) for further information on the informal advisory group.

some informal regional discussions and bilateral conversations. The report of their intersessional work will be made available as document CBD/WGDSI/2/INF/2.

4. The studies requested in subparagraphs 22 (b) and (c) of decision [15/9](#) have also been conducted since the first meeting of the Working Group. Drafts of the studies were made available for peer review on 17 May 2024, and comments were received from 23 Parties, one non-Party and 13 organizations.<sup>3</sup> The studies were revised and finalized in the light of those comments. The executive summary of the studies will be made available as document CBD/WGDSI/2/2/Add.2, while the full studies will be made available as document CBD/WGDSI/2/INF/1.

5. The reflections of the Co-Chairs on the possible elements, further to the intersessional activities and the findings of the studies, are contained in document CBD/WGDSI/2/2/Add.1.

6. The Working Group is invited to consider the rationale for and the elements of a recommendation contained in the sections and annex below.

## **II. Rationale for elements of a recommendation**

7. The following points are drawn from the reflections of the Co-Chairs on the possible elements and provide background information and a rationale for their recommendation, as contained in section III and the annex to the present note.

8. Users of DSI that generate revenue and profit from its use should contribute financially to the global fund, thereby sharing monetary benefits through the multilateral mechanism. To be fair and equitable, contributions should be broadly proportionate to the revenue, turnover or profits generated from the use of DSI. All users, including those that use DSI for non-profit purposes, should be considered as potential contributors to the multilateral mechanism with respect to the sharing of non-monetary benefits.

9. The Co-Chairs have identified for further consideration two trigger points for the requirement to share monetary benefits arising from the use of DSI that meet better than others the criteria laid out in paragraphs 9 and 10 of decision 15/9, namely:

(a) When a product developed through the use of DSI is placed on the market. In this case, users of DSI would be expected to contribute a proportion of the revenue generated by such products;

(b) When revenue is generated by companies operating in a sector that is highly dependent on the use of DSI. In this case, companies would be expected to contribute a proportion of their total revenue generated. A list of such sectors or subsectors would need to be specified, such as those involved in pharmaceuticals, cosmetics, plant and animal breeding and agricultural biotechnology, laboratory equipment associated with the use of DSI, and information, scientific and technical services related to DSI.

10. Under both options, while all producers of products developed through the use of DSI or all companies operating in sectors that are highly dependent on DSI would be encouraged to contribute, the main focus would be on large and transnational producers or companies.

11. The scale of the contributions to the fund should be established taking into consideration the overall intended scale of the fund, the number of contributors, the degree to which revenue generated is dependent on the use of DSI and the potential impact of the contribution on business activity and consumers, so that:

(a) The overall size of the fund makes a significant contribution to the achievement of Goal D and Target 19 of the Kunming-Montreal Global Biodiversity Framework;

(b) The scale of individual contributions to the fund is proportionate and reasonable, in the sense that businesses are not burdened with unsustainable costs and that additional costs are not so

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<sup>3</sup> See [www.cbd.int/notifications/2024-048](http://www.cbd.int/notifications/2024-048).

significant that they are passed on to consumers to an extent that might generate new inflationary pressures.

12. The overall revenue that is most closely derived from the use of DSI is estimated to be of the order of one to a few trillion United States dollars annually to 2030. Under option (b) described in paragraph 9, contributions at the level of 0.1 per cent of revenue could generate between one to a few billion dollars annually, while contributions at the level of 1 per cent could generate between 10 to a few tens of billion dollars annually. The rate of contributions under option (a) would need to be higher to generate a level of funding commensurate with option (b), given the smaller amounts of revenue attached to particular products as compared with entire sectors.

13. In the decision by which it would operationalize the multilateral mechanism, the Conference of the Parties could include a number of provisions to create requirements that, while not legally binding, would facilitate a predictable level of contributions and fairness among potential contributors. Such requirements could include:

(a) A clear statement of who is expected to contribute and the expected level of contributions (as set out in the preceding paragraphs);

(b) A requirement for Parties to take measures (e.g. administrative, policy or legislative) to put in place obligations on users to share benefits arising from the use of DSI in line with the provisions of the multilateral mechanism;

(c) A request that entities operating public databases on DSI make information about the multilateral mechanism available to those accessing the databases, setting out in particular the requirements for users of DSI related to the fair and equitable sharing of benefits;

(d) An assurance that users that contribute to the multilateral mechanism, as indicated in the statement referred to in subparagraph (a), would be considered to be in conformity with any requirements related to the fair and equitable sharing of benefits arising from the use of DSI under the Convention.

14. Voluntary contributions to the fund would also be welcomed from Governments, the private sector, philanthropic organizations or any other source.

15. The funds generated would be expected to be used primarily to support the realization of the objectives of the Convention and the achievement of the goals and targets of the Framework, in particular through the delivery of activities described in national biodiversity strategies and action plans.

16. The Co-Chairs have identified, for further consideration, two possible models for disbursing funds from the global fund:

(a) A project-based allocation methodology;

(b) Direct allocation of funds to countries according to a predetermined formula.

17. Under the project-based allocation methodology, funding would be allocated to support projects developed through a country-driven process that meet predetermined criteria and priorities that could be established by the Conference of the Parties. While such a methodology could be based on a competitive basis, it could also include indicative country allocations. The Global Environment Facility uses such a model, including for the Global Biodiversity Framework Fund, and could be a candidate for hosting such a fund.

18. Under the direct allocation methodology, funds would be allocated to countries according to a predetermined formula, which could account for the biodiversity richness of the countries and their level of development (also serving as a proxy for capacity-development needs). Several existing such formulas could be used, but the Conference of the Parties, or an expert body appointed by it, could also assess existing ones and determine its own. A country's biodiversity richness could serve as a proxy for the potential contribution to public DSI databases.

19. Under the direct allocation option, the global fund could be hosted by any entity that is able to open a bank account, receive funds from national Governments or business entities, disburse funding according to the methodology agreed by the Conference of the Parties and report on its operations to the Conference of the Parties. Parties could designate or establish, as appropriate, a national entity, such as a national biodiversity fund, to receive funds and to distribute them to support activities. Such entities should operate according to internationally accepted fiduciary standards and provide annual reports through national focal points on the activities supported by the funds. If recipient Parties do not wish to establish such entities, they could, at their own discretion, designate an international, regional or subregional entity to fulfil those functions. Parties would report on the use of funds to the Conference of the Parties.

20. In both instances, a proportion of the funding agreed by the Conference of the Parties could be set aside for direct access by indigenous peoples and local communities.

21. All those that use DSI should share non-monetary benefits, noting the varying capacity that they will have to do so. Existing platforms can be used to share activities that are carried out as a result of the multilateral mechanism. A non-exhaustive list of relevant activities and programmes could be decided by the Conference of the Parties at its sixteenth meeting and reviewed on a regular basis.

22. The multilateral mechanism must respect the rights of indigenous peoples and local communities over their traditional knowledge, traditional knowledge associated with genetic resources and genetic resources and data related to them, including with respect to species or places considered as sacred.

23. Some Parties currently have in place national regulatory arrangements for sharing the benefits arising from the use of DSI that were extracted from their territory. It is not reasonable or practical to expect those Parties to take immediate steps to stop benefits being shared through that route. However, Parties should be discouraged from creating at the national level new regulation on the use of DSI in public databases. The interaction between the multilateral mechanism and any existing national arrangements for access and benefit-sharing on DSI should be kept under review, and the Conference of the Parties could decide, on the basis of such a review, and after a period of time, whether or not benefit-sharing under the mechanism should be limited to Parties that do not also require benefit-sharing from the use of DSI under national systems.

24. The effectiveness of the multilateral mechanism, including the global fund, should, as agreed in decision 15/9, be reviewed by the Conference of the Parties at its eighteenth meeting and at regular intervals thereafter, according to an agreed set of factors, and against the criteria established in paragraphs 9 and 10 of decision 15/9.

25. Benefit-sharing from the use of genetic resources should not be facilitated by the multilateral mechanism or fund at the present time. However, the mechanism, including the fund, should be established in such a way that it can accommodate the future inclusion of genetic resources, should the Conference of the Parties so decide.

26. The multilateral mechanism, including the fund, should be designed in such a way as to be mutually compatible with other access and benefit-sharing instruments. In practice, this means that members of other forums where access and benefit-sharing from the use of DSI is being considered are invited to consider whether the mechanism, including the global fund, could be voluntarily extended to those forums.

### **III. Elements of a recommendation**

27. In accordance with its mandate in paragraph 18 of decision 15/9, the Working Group is to make recommendations to the Conference of the Parties at its sixteenth meeting.

28. To assist the Working Group in its task, the Co-Chairs have proposed elements for the further development and operationalization of the multilateral mechanism, including the global fund, as set out in the annex.

29. The Working Group is invited to prepare a recommendation, including, as appropriate, a draft decision for consideration by the Conference of the Parties at its sixteenth meeting containing the modalities for the operationalization of the multilateral mechanism, drawing upon the proposed elements contained in the annex.

## Annex

### Elements proposed by the Co-Chairs for the further development and operationalization of the multilateral mechanism

1. Users of digital sequence information on genetic resources (DSI) that generate revenue from the use of DSI will contribute to the global fund.
2. The following options are proposed:

#### *Option A*

Users of DSI will contribute X per cent of the revenue generated by products placed on the market that have benefited from the use of DSI in their development.

#### *Option B*

Companies in sectors that are highly dependent on the use of DSI will contribute X per cent of their revenue. A list of such sectors is contained in enclosure A.

3. All users of DSI, subject to their individual circumstances, should share non-monetary benefits arising from the use of DSI through the multilateral mechanism. Such non-monetary benefits may include those listed in enclosure B.
4. Entities operating public databases on DSI are encouraged to make information about the multilateral mechanism available to those accessing the databases, including the requirements for users of DSI related to the fair and equitable sharing of benefits arising from the use of DSI.
5. Parties are to take administrative, policy or legislative measures to encourage and enable businesses to contribute to the global fund in line with the provisions of the multilateral mechanism set out in the present decision, and, in the case of large and transnational companies, to facilitate or ensure such contributions.
6. Contributions to the global fund may be made directly or through a relevant national authority.
7. Users that make contributions to the fund in line with the provisions of the multilateral mechanism set out in the present decision are considered to be in conformity with the requirements related to the fair and equitable sharing of benefits arising from the use of DSI under the Convention on Biological Diversity.
8. Additional contributions to the global fund from businesses, non-profit or philanthropic organizations and Governments are encouraged.
9. Funding in the global fund should be allocated in a fair, equitable, transparent, accountable and gender-responsive manner.
10. Funding should be used primarily to support the realization of the objectives of the Convention and the achievement of the goals and targets of the Kunming-Montreal Global Biodiversity Framework, in particular through the delivery of activities described in national biodiversity strategies and action plans. Funding may support conservation and sustainable use and the building of the capacity to generate, access, use, analyse and store DSI.
11. Funding will be allocated taking into account the overall level of funding available in the global fund and each country's biodiversity richness and level of development, with at least X per cent set aside to support the priority needs of indigenous peoples and local communities.

12. With regard to disbursement, the following options are proposed:

*Option A*

Funding will be disbursed on the basis of projects developed through a country-driven or community-driven process, as appropriate, that meet criteria that may be established by the Conference of the Parties, taking into account indicative allocations for countries and indigenous peoples and local communities, and is administered by an international entity, such as the Global Environment Facility through the Global Biodiversity Framework Fund;

*Option B*

(a) Funding will be disbursed through direct allocations to countries, according to an agreed formula reflecting each country's biodiversity richness and level of development, with at least X per cent set aside to support the priority needs of indigenous peoples and local communities. The fund will be administered by an international entity, such as the Secretariat of the Convention, any other United Nations body or the Global Environment Facility;

(b) The initial formula for allocation is set out in enclosure C. The formula will be reviewed by the Conference of the Parties at its seventeenth meeting, on the basis of the work of an expert group on allocation methodology established with the terms of reference provided in enclosure D;

(c) Each recipient Party is invited to designate, or establish, as appropriate, a national entity, such as a national biodiversity fund, to receive funds and distribute them to support the activities set out in paragraph 10. Such entities should operate according to internationally accepted fiduciary standards and provide annual reports through national focal points on the activities supported by the funds. Recipient Parties, at their own discretion, may alternatively designate an international, regional or subregional entity to fulfil those functions.

13. The multilateral mechanism must respect the rights of indigenous peoples and local communities over their traditional knowledge, traditional knowledge associated with genetic resources and genetic resources and data related to them, including with respect to species and places considered as sacred.

14. Parties should refrain from putting in place national measures that require the sharing of benefits arising from the use of DSI available in public databases.

15. The effectiveness of the multilateral mechanism, including the fund, will be reviewed at the eighteenth meeting of the Conference of the Parties and at regular intervals thereafter, against the principles established in decision 15/9, and according to the factors set out in enclosure E, noting also the relevance of the review of the Framework as a whole due to be conducted at the eighteenth meeting of the Conference of the Parties further to decisions 15/5 and 15/6. The review of effectiveness will include a review of the interaction between the mechanism and any existing national arrangements for access and benefit-sharing on DSI.

16. In the light of the review described in paragraph 15, the Conference of the Parties will consider at its eighteenth meeting the need, if any, to adjust the modalities of the mechanism to improve its effectiveness with respect to the fair and equitable sharing of benefits arising from the use of DSI.

## **Enclosure A**

### **Sectors**

Sectors such as those involved in:

- Pharmaceuticals
- Cosmetics
- Plant and animal breeding and agricultural biotechnology
- Laboratory equipment associated with the use of digital sequence information on genetic resources (DSI)
- Information, scientific and technical services related to DSI

## **Enclosure B**

### **Non-monetary benefits**

To be elaborated on the basis of paragraph 34 of the annex to document CBD/WGDSI/1/3 (possible elements of a multilateral mechanism for benefit-sharing from the use of digital sequence information on genetic resources, including a global fund).

## **Enclosure C**

### **Initial formula for allocation**

To be elaborated on the basis of paragraphs 35 and 36 of document CBD/WGDSI/2/2/Add.1.

## **Enclosure D**

### **Terms of reference for the Expert Group on Allocation Methodology**

To be elaborated.

## **Enclosure E**

### **Factors to be considered in the review**

To be elaborated taking into consideration the following, which is drawn from document CBD/WGDSI/2/2/Add.1:

- (a) Amount of funds mobilized through the global fund, in total and disaggregated by contributors and recipients (countries and indigenous peoples and local communities);
- (b) Summary information on the activities supported by the fund;
- (c) Estimates of the scope and value of the non-monetary benefits facilitated by the multilateral mechanism;
- (d) An assessment of the efficiency of the multilateral mechanism, taking the costs of its operations into account;
- (e) An assessment of the contribution of the multilateral mechanism to the realization of the three objectives of the Convention;
- (f) An assessment of the effectiveness of the multilateral mechanism in providing legal certainty to providers and users of digital sequence information on genetic resources (DSI);
- (g) Information on the possible interactions between the multilateral mechanism and benefits from the utilization of genetic resources under the Convention on Biological Diversity and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization;



(h) Information on possible multiple payments related to DSI, taking into account benefits shared through the multilateral mechanism and those related to DSI shared under national access and benefit-sharing measures;

(i) Information on the possible implications of the operation of the multilateral mechanism on the rights of indigenous peoples and local communities, including with respect to their traditional knowledge and associated genetic resources, as well as possible implications on other groups, including women and youth;

(j) Information on the possible implications of the operation of the multilateral mechanism on the operations of public databases on DSI, in particular with respect to open access, as well as possible implications on research and innovation;

(k) Information on the interactions and possible synergies between the operation of the multilateral mechanism and other multilateral access and benefit-sharing instruments.

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