



## 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**

### **Reflections of the Co-Chairs on the possible elements identified by the Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources at its first meeting**

Note by the Secretariat

#### **I. Introduction**

1. In paragraphs 9 and 10 of its decision 15/9, by which it established a multilateral mechanism for benefit-sharing from the use of digital sequence information on genetic resources (DSI), including a global fund, and a process to further develop and operationalize the mechanism, the Conference of the Parties set out criteria for the multilateral mechanism.
2. At its first meeting, the Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources considered a synthesis of views pursuant to decision 15/9,<sup>1</sup> as well as the compilation of lessons learned from other international funding mechanisms.<sup>2</sup> The Working Group developed possible elements of a multilateral mechanism for benefit-sharing from the use of DSI, including a global fund, identifying elements on which there was potential convergence and elements on which there was a need for further discussion, also taking into account the studies commissioned under paragraph 22 of decision 15/9 (CBD/WGDSI/1/3, annex).
3. The Working group also endorsed a proposal of the Co-Chairs of the Committee of the Whole for intersessional activities, which included information-sharing activities, informal regional consultations and an informal advisory group on DSI. The outcomes of the intersessional activities are summarized in document CBD/WGDSI/2/INF/2.
4. The Executive Secretary commissioned the studies requested in decision 15/9, namely, a study to analyse and model the extent to which a multilateral mechanism meets the criteria in paragraphs

\* CBD/WGDSI/2/1.

<sup>1</sup> CBD/WGDSI/1/2/Add.1.

<sup>2</sup> CBD/WGDSI/1/INF/1.

9 and 10 of the decision and a study on the options for revenue-generating measures at different points along the value chain, the feasibility of their implementation and their costs relative to their potential revenue. The combined studies can be found in document CBD/WGDSI/2/INF/1 and an executive summary is provided in document CBD/WGDSI/2/2/Add.2.

5. The present note contains the Co-Chairs' reflections on the elements of a multilateral mechanism identified by the Working Group at its first meeting, taking into consideration the outcomes of the intersessional activities and the combined studies. The reflections in the present note are not to be understood as prescribing text or outcomes; rather, they are intended to facilitate deliberations of the Working Group by building on areas of convergence, offering initial ideas on how to resolve areas of divergence and developing the rationale underpinning the elements of a draft recommendation, as contained in document CBD/WGDSI/2/2.

6. In the following section, the elements of a multilateral mechanism identified by the Working Group at its first meeting are reproduced verbatim, in bold text, (each identified by its original paragraph number), followed by the Co-Chairs' reflections on each element, or group of related elements. Unless otherwise specified, cross-references to paragraph numbers are to the paragraphs of the annex to CBD/WGDSI/1/3.

## **II. Reflections on the possible elements of a multilateral mechanism identified by the Working Group at its first meeting**

### **A. Contributions to the fund**

#### *Elements on which there is potential convergence*

**Para. 3: The global fund should contribute to the achievement of Target 19 and Goal D of the Framework without changing the existing international obligations of all Parties to the Convention, including under Article 20, and can contribute to mobilizing new and additional means of implementation.**

7. The Co-Chairs heard continued convergence on this element.

#### *Elements on which there is a need for further discussion ...*

**Para. 4: Whether the following triggers could meet the criteria in paragraphs 9 and 10 of decision 15/9 and mobilize timely and predictable funding at the intended scale:**

- (a) Access to digital sequence information on genetic resources;**
- (b) Use of digital sequence information on genetic resources;**
- (c) Generation of revenue arising from the use of digital sequence information on genetic resources;**
- (d) Commercialization of products derived from the use of digital sequence information on genetic resources;**
- (e) Any other triggers already identified or to be identified.**

8. The Co-Chairs heard that triggers should be selected such that payments are simple to make and to be collected. They heard support for a number of different triggers for the sharing of monetary benefits from the use of DSI. While it remains clear that no single trigger perfectly meets every criterion in paragraphs 9 and 10 of decision 15/9, the Co-Chairs heard that some triggers are better able to meet more of the criteria in decision 15/9 than others. The Co-Chairs also heard that some triggers are more likely to be able to mobilize timely and predictable funding at the intended scale, noting that there is increased likelihood of revenue being generated as one progresses along the value chain.

9. The Co-Chairs heard limited support for a trigger at the point of access to DSI in public databases, as it could conflict with the criteria of open access and of not hindering research and

innovation. Payments at point of access could be burdensome for users, particularly those in the public sector and those in developing countries. However, the Co-Chairs heard some support for the notion that the point of access to DSI could be used as a moment in which users could be given information and provide their consent to share benefits, if they arise, at a later point in the value chain (use, commercialization or revenue generation), in line with the criterion on certainty and legal clarity for users of DSI.

10. The Co-Chairs' view is that the following two triggers might be best placed to meet the criteria in decision 15/9, and suggest therefore that these options be the basis for further consideration:

(a) An obligation to share benefits arising from the use of DSI is triggered when a product that has been developed using DSI is placed on the market. Such a trigger does not hinder not-for-profit research and innovation and is consistent with open access to data. It also has the potential to be efficient, feasible, practical and effective on the basis that a user of DSI, having made a decision to place a product on the market, will be reasonably assured that the product may make profit, which means that monetary benefits are likely to arise from the use of DSI. It is important to note that this trigger does not require "track and trace", in the sense of tracking the *geographical origin of specific sequences*, but only knowledge that DSI was used in the development of a particular product.<sup>3</sup> It should be noted that there are potential challenges in the implementation of this trigger, as it requires identification of those products that "use" DSI in their development;

(b) An obligation to share benefits from the use of DSI is triggered when a business operates in a sector the turnover of which is substantially reliant on the use of DSI. While this trigger is linked to the use of DSI, it is unlinked from *specific* uses of DSI in *specific* products, and thus avoids the challenge associated with the first trigger requiring the identification and listing of products that "use" DSI. Instead, it may require the identification of a number of sectors, or subsectors, that are reliant on the use of DSI (the studies summarized in document CBD/WGDSI/2/2/Add.2 contain relevant information in this regard). This second trigger might therefore better meet some of the principles laid out in decision 15/9.

11. The Co-Chairs note that some realizations of these triggers would share some characteristics with the proposals described in paragraph 14 of the annex to the report of the Working Group on its first meeting.

**Para. 5: Whether in the case of a voluntary system, a trigger is needed.**

12. The Co-Chairs heard the term "voluntary" used in a number of different ways. For the purposes of paragraph 5, the Co-Chairs note that a system that relies on purely voluntary contributions (such as philanthropic donations) would, by definition, not require a trigger for contributions as such. However, if "voluntary" is understood to include prescribed contributions that cannot be legally mandated, but are expected to be made nonetheless,<sup>4</sup> then trigger points may still be needed (see also reflections under paragraph 8 regarding incentives for voluntary contributions).

**Para. 6: Whether all users of digital sequence information on genetic resources could be potential contributors to the mechanism.**

13. The Co-Chairs propose that there be potential convergence on the following: those that use DSI and generate profit from its use should contribute financially to the global fund, thereby sharing monetary benefits through the global mechanism. While all users, including those that use DSI for

<sup>3</sup> It may be recalled that, in paragraph 5 of decision 15/9, the Conference of the Parties to the Convention recognized that tracking and tracing of all digital sequence information on genetic resources was not practical.

<sup>4</sup> An analogy is the way that voluntary "assessed contributions" are expected to be paid to the budget of the Secretariat of the Convention on Biological Diversity, for example. Another analogy is the Partnership Contribution of the Pandemic Influenza Preparedness Framework for the sharing of influenza viruses and access to vaccines and other benefits, which is an annual cash contribution from influenza vaccine, diagnostic and pharmaceutical manufacturers for improving global pandemic influenza preparedness and response. For more information, see section 6.14 of the Pandemic Influenza Preparedness Framework and information on the Partnership Contribution on the website of the World Health Organization at [www.who.int/initiatives/pandemic-influenza-preparedness-framework/partnership-contribution](http://www.who.int/initiatives/pandemic-influenza-preparedness-framework/partnership-contribution).

not-for-profit purposes, should be considered as potential contributors to the global mechanism with respect to the sharing of non-monetary benefits (see sect. C), not-for-profit users would not be required to contribute to the global fund.

**Para. 7: Whether donors, including Governments, should contribute to the fund, for example in its start-up phase to ensure sufficient initial capitalization, or make contributions on an ad hoc or regular basis.**

14. The Co-Chairs heard that it would be important for the fund be focused primarily on sharing the benefits that arise from the use of DSI. However, they heard no suggestion that Governments, either in a start-up phase or on a regular or ad hoc basis, should be prohibited from contributing to the fund.

**Para. 8: Identification of possible effective incentives for voluntary contributions to the fund.**

15. The Co-Chairs heard various suggestions for ways of incentivizing users of DSI to contribute to the global fund. For instance, and of particular relevance to contributions that are purely voluntary, subject to national circumstances, contributions could be classified as charitable donations and thus qualify companies for corporate tax deductions.

16. The Co-Chairs did hear other suggestions for incentives, such as providing an international standard of compliance. While this would not really be necessary for purely voluntary contributions, such incentives would be relevant to contributions that are considered voluntary in the sense that their payment cannot be legally enforced. This is further discussed under paragraph 9 below.

**Para. 9: How obligations for sharing the benefits from the use of digital sequence information on genetic resources in the multilateral mechanism can be created; whether this would facilitate a predictable level of contributions and fairness among potential contributors; and whether this could be done through a legally binding instrument or a non-legally binding framework and the timelines associated with these options.**

17. The Co-Chairs heard convergence on the statement that the Conference of the Parties is not able to introduce ipso facto a mechanism that is legally binding internationally without the establishment of a treaty and that Parties are not currently willing to start such a process. At the same time, the Co-Chairs heard many views, from both Governments and the private sector, that a purely voluntary system is unlikely to be effective or to be fair and equitable. The Co-Chairs note that while some existing instruments do rely entirely on the voluntary participation of industry, these have not generated resources at the level expected (information in this respect is included in document CBD/WGDSI/1/INF/1). Moreover, large users of DSI converged on the point that obligations to share benefits would create a global level playing field, meeting the criterion in decision 15/9 concerning certainty and legal clarity for providers and users of DSI.

18. Taken together, the Co-Chairs are of the view that a decision of the Conference of the Parties by which it would operationalize the multilateral mechanism could include a number of provisions to create requirements that, while not directly legally binding, would facilitate a predictable level of contributions and fairness among potential contributors. This could include:

(a) A clear statement of who is expected to contribute and the expected level of contributions (see reflections under paras. 4 and 10–12, respectively);

(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, along with specific guidance on when such obligations should arise and how they should be discharged;

(c) An assurance that users that contribute to the multilateral mechanism, according to its provisions, would be deemed to be in conformity with any requirements related to the fair and equitable sharing of benefits from the use of DSI under the Convention.

19. This means that implementation of any eventual decision by the Conference of the Parties on DSI would be carried out at the national level, according to national circumstances, and that it would be up to individual Parties, within the parameters of that specific decision, to determine the precise nature of the obligations that users of DSI would be put under with respect to the global mechanism and fund.

20. Many commercial users of DSI operate in complex global value chains across multiple jurisdictions and within different legal and regulatory frameworks. A decision by the Conference of the Parties would provide the opportunity to harmonize, where possible, those national approaches to implementation, minimizing the resulting burden on businesses to comply across different jurisdictions.

**Para. 10: How the scale of contributions to the fund could be determined.**

**Para. 11: Whether contributions to the fund should be proportionate to the revenue generated from the use of digital sequence information on genetic resources.**

**Para. 12: The scale and sectors of the industries that use digital sequence information on genetic resources, including information on, for example, turnover, profit, people employed, countries of operation and reliance on digital sequence information on genetic resources.**

21. At the first meeting of the Working Group, there was already potential convergence that the global fund should contribute to the achievement of Goal D and Target 19 of the Kunming-Montreal Global Biodiversity Framework, without changing existing obligations under the Convention (see para. 3). The Co-Chairs heard that this contribution should be a significant one. The Co-Chairs also heard that a mechanism related to access and benefit-sharing should not be expected to provide all, or even the majority of, those resources, noting that Target 19 is to mobilize at least 200 billion United States dollars per year from all sources. The Co-Chairs did not hear a clear interpretation of “significant”, but for reference, 5 per cent would amount to \$10 billion per year and 10 per cent would amount to \$20 billion per year.

22. The Co-Chairs heard that, for the multilateral mechanism to be fair and equitable, contributions should be broadly proportionate to the revenue (or, noting their different practical meaning, turnover or profits) from the use of the DSI. If the trigger point is unlinked from *specific* uses of DSI in *specific* products (see para. 4 above), then the scale of payments could be based on total turnover, sales revenue or profits of the companies involved (among other measures referenced in para. 12). The studies (see CBD/WGDSI/2/2/Add.2) provide information on the meaning of each of those terms, the relationship among them and the potential merits of using one or the other in determining payments.

23. The Co-Chairs note that profits are rarely publicly disclosed. Turnover, which is more readily available, serves as a reasonable proxy for the overall economic activity of a business, though it is not directly linked to profitability, which will vary extensively both across and within sectors. Depending on the sector concerned and the point in the value chain, additional costs imposed on business may be passed on to consumers. Given the global nature of both the relevant supply chains and the mechanism itself, it is critical that any “scale of contributions” be set high enough to generate “significant” funds, while not set at such a level that it would affect the competitiveness of the companies involved or have them pass on significant costs to consumers (leading to an increase in the price of goods that could become an inflationary pressure, which would likely be regressive).

24. The studies identify five main sectors currently using DSI and provide their total annual revenue. The revenue of the sectors, subsectors or points in the value chain that are most closely dependent on the use of DSI is estimated to be of the order of one to a few trillion dollars annually to 2030. The Co-Chairs note that 0.1 per cent of one trillion amounts to \$1 billion, while 1 per cent amount to \$10 billion. The experience of relevant global and national access and benefit-sharing arrangements could also inform the setting of a figure.

**Para. 13: Which elements of the modality for assessing contributions would need to be agreed by the Conference of the Parties, and which could be left to the governing body of the fund.**

25. The Co-Chairs heard potential convergence on the statement that the Conference of the Parties should be responsible for determining the size of contributions to the fund (see also sect. E).

**Para. 14: Whether and how possible criteria for the scale of contributions could include:**

(a) 1 per cent of the retail price of all commercial income net revenue from products resulting from all utilization of digital sequence information on genetic resources;

(b) The profits or revenue generated from the use of digital sequence information on genetic resources.

26. Reflections on paragraph 14 are captured under paragraph 4 and paragraphs 10 to 12.

## **B. Disbursement from the fund**

### *Elements on which there is potential convergence*

**Para. 15: The strategic priorities and disbursement criteria of the fund should be decided by the Conference of the Parties.**

**Para. 16: Funding should be directed towards activities that support the conservation and sustainable use of biodiversity and the implementation of national biodiversity strategies and action plans, especially in developing countries, in particular the least developed countries and small island developing States, as well as countries with economies in transition.**

**Para. 17: Funding could be directed towards other biodiversity-related priorities, including the relevant Sustainable Development Goals.**

**Para. 18: Funding should be allocated in a fair, equitable, transparent, accountable and gender-responsive manner.**

**Para. 19: The fund should allow for the allocation of funding to indigenous peoples and local communities in all regions, in particular in developing countries.**

**Para. 20: Various factors could be used to determine the level of funding allocated, including:**

(a) The self-identified needs of indigenous peoples and local communities, women and youth, taking into account their major contribution to the conservation and sustainable use of biodiversity;

(b) The biodiversity, ecological or ecosystemic richness of the country;

(c) The capacity needs of countries, in particular with regard to digital sequence information on genetic resources;

(d) Regional balance and particular consideration of the needs of developing countries;

(e) Capacity needs with respect to conservation and sustainable use.

27. The Co-Chairs heard continued convergence on those points.

### *Elements on which there is a need for further discussion*

**Para. 21: How indigenous peoples and local communities should access funds, whether they should be able to access the funds directly and/or indirectly and how they can be involved in the decision-making.**

28. The Co-Chairs heard support for the principle that indigenous peoples and local communities should be able to access funding through representative institutions, organizations or fiscal sponsors identified by them through their own community processes (see also para. 59). Indigenous peoples and local communities in all countries should be able to access funding.

29. To ensure this, regardless of the options for fund disbursement discussed under paragraphs 23 to 25 below, the Co-Chairs' view is that a certain allocation of the DSI global fund (at least 20 per cent) could be set aside for indigenous peoples and local communities. These dedicated funds could be distributed by existing programmes that enable direct access by indigenous peoples and local communities, such as the small grants programme of the United Nations Development Programme, or allocated from set-asides in national allocations.

**Para. 22. Whether or not countries that require, through national legislation, benefit-sharing from the use of digital sequence information on genetic resources in international public databases should also receive benefits from the multilateral mechanism.**

30. Reflections on paragraph 22 are captured under paragraph 63 (f).

**Para. 23: Whether funding should be disbursed according to country allocations, on a project basis, a combination thereof, or another modality altogether.**

**Para. 24: Whether the level of development of the country should be considered or assessed when allocating funding.**

**Para. 25: Whether the level of funding disbursed should always be on the basis of a needs assessment.**

31. While there is potential convergence on the factors to be considered when funds are being disbursed, as set out in paragraph 20 above, the Co-Chairs heard a range of views on the approach to fund disbursement with respect to the issues addressed in paragraphs 23 to 26. Some of those issues will have important implications for governance of the fund (see sect. D).

32. In particular, the Co-Chairs heard mixed views on whether disbursement should be made according to country allocations, on a project basis, or a combination thereof. According to some, competitive allocation processes introduce access burdens that are not equitable. Some suggested that one way to avoid competitive processes would be for funding to be disbursed according to a predetermined formula that would enable funding to flow "automatically" (as described below).

33. The Co-Chairs' view is that there may be potential convergence on two broad options for fund disbursement that could provide the basis for further consideration: (a) a project-based allocation methodology; and (b) direct allocation of funds to countries according to a predetermined formula.

34. 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 may be established by the Conference of the Parties. While this may be on a competitive basis, it could also include indicative country allocations. This is the model used by the Global Environment Facility (GEF), including for the Global Biodiversity Framework Fund. Such an approach could include an allocation for indigenous peoples and local communities and modalities for direct access to funding.

35. Under the direct allocation of funds to countries according to a predetermined formula, the Conference of the Parties, or a technical body operating under its authority, would determine a formula that may be based on the factors set out in paragraph 20. Such a "formula-based" approach would avoid the need for Parties to compete for funding on a project-based level. It would also reduce levels of governance and administrative costs, on the basis that there would be no need for case-by-case assessment of various funding proposals. Designed in the right way, this formula-based approach would meet the specification in paragraph 18 that funding should be allocated in a fair, equitable, transparent, accountable and gender-responsive way. It would also generate predictable and timely financial flows.

36. An automated formula could account for the biodiversity (and ecological or ecosystemic) richness and uniqueness of the country, as well as the 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.<sup>5</sup>

37. Under this option, to ensure that the funds from the global fund on DSI are used for the purpose it specified, the Conference of the Parties could indicate an expectation that Parties should create a new mechanism or use an existing one, such as a sovereign biodiversity fund, into which funding would be disbursed, and the country would be required to report on its use to the Conference of the Parties. The national focal point of the Convention could be involved in the governance of such a fund.

38. Under this 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.

**Para. 26: Whether funding allocations should be based, at least in part, on the geographical origin of the genetic resources from which the digital sequence information on genetic resources is derived, noting that current studies suggest there are only incomplete data available on geographical origin in databases.**

39. The Co-Chairs heard some support for the principle that disbursement from the fund should consider the geographical origin of the genetic resources from which the digital sequence information is derived, such that Parties with a higher contribution of DSI to public databases would receive higher levels of funding. Although such geographical data in public databases are often incomplete, some studies show that the geolocation data can serve as a reasonable proxy for the entire database, and the Co-Chairs heard that requiring disbursement methodology to be linked to geographical origin would underline the expectation that data in databases should be geotagged. At the same time, however, they heard that linking disbursement to the amount of data in databases risked propounding existing inequities, since data in the global datasets are correlated with the capacity, ability, skills and technology of a Party to generate, access and use genetic data. Given those complexities, the Co-Chairs invite Parties to continue to consider that a country's "biodiversity richness" could serve as a proxy for the current or potential contribution to databases.

## C. Non-monetary benefit-sharing

### *Elements on which there was potential convergence*

**Para. 27: Criteria for the sharing of non-monetary benefits could include:**

- (a) **The need for additional capacity for the purposes of conservation and sustainable use;**
- (b) **The capacity gap, especially between developed and developing countries, and in particular with respect to the ability to generate, access, use, analyse and store digital sequence information on genetic resources;**
- (c) **The self-identified needs of indigenous peoples and local communities, women and youth taking into account their major contributions to the conservation and sustainable use of biodiversity;**
- (d) **The needs of national agencies and institutions, including research and academic institutions.**

**Para. 28: Work to facilitate capacity-building and development and technology transfer and development on digital sequence information on genetic resources should contribute to the implementation of the relevant provisions on technical and scientific cooperation and**

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<sup>5</sup> Using, for example, the human development index of the United Nations Development Programme, by which a country's level of development is determined, and a biodiversity index, like those maintained by the United Nations Environment Programme World Conservation Monitoring Centre. Both indices could be given equal weight, or one could be prioritized over the other.



technology transfer and development under the Convention, building on, inter alia, the ongoing work under the Convention, including pursuant to decision 15/8 of the Conference of the Parties on capacity-building and development and technical and scientific cooperation, needs assessments, national biodiversity strategies and action plans, and the regional and/or subregional technical and scientific support centres;

**Para. 29:** The work to facilitate capacity-building and development, technical and scientific cooperation and technology transfer and development on digital sequence information on genetic resources for use in the conservation and sustainable use of biological diversity would have the high-level goals of:

- (a) Improving the ability to manage and conserve biodiversity and use it sustainably;
- (b) Closing the gap in capacity to generate, access, use, analyse and store digital sequence information on genetic resources, in particular between developed and developing countries;
- (c) Delivering national priorities for capacity-building and development, scientific and technical cooperation and technology transfer and development by building and developing individual, organizational and enabling capacity, as well as research infrastructure;

**Para. 30:** Target beneficiaries of capacity-building and development include indigenous peoples and local communities, women, youth, as well as Governments and researchers.

**Para. 31:** There are many ways in which non-monetary benefits are already being shared and the future sharing of non-monetary benefits should take into account lessons learned from those experiences.

40. The Co-Chairs heard continued convergence on paragraphs 27 to 31.

*Elements on which there is a need for further discussion*

**Para. 32:** Whether there is a need for a new platform or facility for sharing non-monetary benefits, such as technologies and capacities that are developed using digital sequence information on genetic resources and what the potential modalities would be.

41. The Co-Chairs heard that existing platforms could serve to facilitate the sharing of non-monetary benefits and to allow the providers of those benefits to monitor and advertise their activities. For example, the Convention has a clearing house that could facilitate the exchange of information and technical and scientific cooperation in support of DSI activities. In addition, the regional and/or subregional technical and scientific cooperation support centres established under decision 15/8 could be used to share the products of scientific collaboration or capacity-building. Potentially, some of the funds from the global fund on DSI could be dedicated to facilitating the sharing of non-monetary benefits, possibly through the regional and/or subregional technical and scientific cooperation support centres.

**Para. 33:** Whether the needs of stakeholders could be a criterion for the sharing of non-monetary benefits, and if so, which stakeholders;

42. The Co-Chairs heard examples of instances where researchers from non-commercial and commercial organizations had successfully implemented different partnership and capacity-building initiatives at various stages of their research and development processes with respect to physical genetic resources. Partnerships involved businesses, women, youth, indigenous peoples and local communities and non-commercial researchers. The Co-Chairs heard agreement that governmental and non-governmental research institutions and businesses should be involved in the non-monetary benefit-sharing arising from the use of DSI, as both providers and beneficiaries.

**Para. 34:** Whether non-monetary benefits from the use of digital sequence information on genetic resources could include the following:

- (a) **Projects for the conservation or sustainable use of biodiversity or for the protection and maintenance of knowledge, innovations or practices of indigenous peoples and local communities, traditional farmers, women and youth preferably in the country of origin of the genetic resource that gave rise to the digital sequence information, when identifiable;**
- (b) **Technology transfer and technology development;**
- (c) **Making the product available in the public domain;**
- (d) **Licensing of products free of charge;**
- (e) **Training of human resources in topics related to the conservation and sustainable use of genetic diversity or associated traditional knowledge;**
- (f) **Free distribution of products in social interest programmes;**
- (g) **Establishment of national databases;**
- (h) **Promoting joint research-partnerships;**
- (i) **Joint ventures.**

43. The Co-Chairs heard several positive examples of collaborations, technology transfer or joint ventures involving the use of genetic resources, with the suggestion that similar activities could be considered with respect to the sharing of non-monetary benefits from the use of DSI. They also heard that activities with an indirect positive impact on conservation could also be considered.

44. Further consideration may need to be given to ways to enable the mechanisms referred to in paragraphs 28 and 32 to close the gap in capacity to generate, access, use, analyse and store DSI, in particular between developed and developing countries.

**Para. 35: Whether the discussion on non-monetary benefit-sharing should take into account the outcomes of the meeting held in 2020 by the Ad Hoc Technical Expert Group on Digital Sequence Information on Genetic Resources with regard to key areas for capacity-building and development.**

45. The Co-Chairs heard reference made to the areas for capacity-building and development identified by the Working Group, as well those mentioned in the annex of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (see para. 34 above).

**Para. 36: Whether the use of digital sequence information on genetic resources could serve as a trigger for non-monetary benefit-sharing.**

46. The Co-Chairs heard potential convergence on the statement that an expectation to share non-monetary benefits arises from the use of DSI, whether such use is for a commercial purpose or not. There needs, however, to be recognition of the varying capacity that users of DSI will have with respect to sharing non-monetary benefits (see also reflections under paras. 4 and 6).

## **D. Governance**

*Elements on which there is potential convergence*

**Para. 37: The multilateral mechanism will be guided by strategic principles set out by the Parties to the Convention, including those in decision 15/9, in particular paragraphs 9 and 10;**

**Para. 38: The global fund should operate under the supervision and guidance of the Conference of the Parties;**

**Para. 39: There should be a governing body for the global fund, and it should operate in a transparent way;**

**Para. 40: The governing body of the fund should include Party representatives;**

**Para. 41: The private sector and other contributors should be able to contribute to the fund without significant administrative burden;**

**Para. 42: The fund should be able to receive and disburse funding soon after a decision is taken by the Conference of the Parties at its sixteenth meeting;**

**Para. 43: The operation of the multilateral mechanism should be monitored against the principles set out in decision 15/9, in particular paragraphs 9 and 10;**

**Para. 44: The monitoring and evaluation framework for the fund could be developed in coordination with the monitoring framework for the Kunming-Montreal Global Biodiversity Framework, and in particular for Target 13 and Goal C, and a system and associated capacity should be established for regular review;**

**Para. 45: The multilateral mechanism should be evaluated and reviewed in accordance with an agreed methodology in a transparent manner;**

**Para. 46: 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.**

47. The Co-Chairs heard continued convergence on these points.

*Elements on which there is a need for further discussion*

**Para. 47: Whether and how the governance of the fund should include the participation of representatives of:**

- (a) **Indigenous peoples and local communities;**
- (b) **The private sector;**
- (c) **Civil society;**
- (d) **Youth;**
- (e) **Women;**
- (f) **Academia;**
- (g) **Non-Parties;**
- (h) **Infrastructure and database providers;**
- (i) **Other access and benefit-sharing instruments.**

48. The Co-Chairs heard apparent convergence on the statement that the needs and rights of indigenous peoples and local communities, women and youth should be adequately reflected in the governance of the mechanism and the fund. They have not yet heard convergence on whether representatives of those groups should sit on the governing body of the fund, but this might be due to the fact that discussions on the design of the fund host and governing model are ongoing. The Co-Chairs heard only limited discussion of the potential roles for the private sector, civil society, academia, non-Parties, infrastructure and database providers and other access and benefit-sharing instruments in the fund governance, but the Co-Chairs heard from the private sector that they sought transparency about the way in which funding was being used. Some private sector representatives were keen to ensure that industry had a role in the allocation of funding.

**Para. 48: Options for new or existing funds which could host the global fund, including how quickly they could be operational;**

49. In their reflections on paragraphs 23 to 26, the Co-Chairs propose that two models for the disbursement of funding be further considered: (a) a project-based allocation methodology; and (b) direct allocation of funds to countries according to a predetermined formula.

50. In the case that a project-based approach is taken, GEF might be considered to host the global fund, potentially as part of the GEF Trust Fund or the Global Biodiversity Framework Fund, noting

however, that the Global Biodiversity Framework Fund currently has a mandate to operate only until 2030 (see also reflections on para. 49 below).

51. In the case that a direct allocation approach is used with a predetermined formula, then 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. Those straightforward functions could be administered by, for example, the Secretariat of the Convention, given an appropriate increase in resources, or by another United Nations entity. It could also be hosted by GEF or the Global Biodiversity Framework Fund.

**Para. 49: Options for revisions to the operating modalities of the Global Environment Facility or the Global Biodiversity Framework Fund, under request from the Conference of the Parties, to enable them to serve as the host of the global fund;**

52. In the case of the option of the global fund being part of the GEF Trust Fund or the Global Biodiversity Framework Fund, the Co-Chairs' current understanding is that changes may be required to the GEF instrument, administered by the World Bank, to be able to award funding to any entities, including indigenous peoples and local communities, in developed countries. The Co-Chairs also understand that those making payments into the Fund would need to follow the relevant World Bank processes. The Co-Chairs also invite consideration of whether the GEF Council or the Global Biodiversity Framework Fund Council are able to serve in an appropriate way as the governing body for an access and benefit-sharing instrument.

**Para. 50: Whether, and if so how, the work of the relevant advisory committees and advisory groups under the Convention could be taken into account in the work of the Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources, and vice versa;**

53. The Co-Chairs presented the ongoing work of the Working Group to the Advisory Committee on Resource Mobilization at its second meeting. The Advisory Committee will hold its third meeting the week after the present meeting of the Working Group, to discuss the third part of its mandate, related to the global instrument for biodiversity finance, that is, whether and how either of the funding mechanisms mentioned above, or another alternative, would be the adequate entity to receive and disburse the revenue generated by the mechanism established under decision 15/9.

54. In addition, following the request made by the Subsidiary Body on Scientific, Technical and Technological Advice at its twenty-sixth meeting, the Co-Chairs have met with the Co-Chairs of the Ad Hoc Technical Expert Group on Indicators for the Kunming-Montreal Global Biodiversity Framework and invited the Secretariat officers leading the work on indicators to make a presentation to the informal advisory group on DSI.

**Para. 51: How to ensure the global fund is consistent with principles of inclusivity, equity and transparency;**

55. The Co-Chairs heard agreement that the fund host should be designed in such a way that it is consistent with those principles. Relevant aspects relate to the design of the disbursement mechanism (see paras. 23–26) and the governance of the fund (see paras. 47 and 49).

**Para. 52: The difference, if any, between governance of the mechanism as a whole and governance of the fund and the need for coherence between them;**

56. The Co-Chairs did not hear many views on those topics. However, general guidance is provided through the points of potential convergence already identified by the Working Group at its first meeting (see paras. 37–46).

57. The Co-Chairs' view is that governance of the multilateral mechanism as a whole would be provided by the Conference of the Parties (which might be supported by advisory or technical

bodies). The Conference of the Parties would be expected to set out the principles for the operationalization of the fund and to keep the implementation of the mechanism under review.

58. The need for separate governance arrangements for the fund, and their extent, would depend on the approach taken (see paras. 23–26) and the host institution for the fund (see para. 48).

**Para. 53. Whether and, if so, how, a family of linked databases under the mechanism should be created and any potential implications of this, such as the possible fragmentation of databases;**

59. The Co-Chairs did not hear particular views on that issue. The International Nucleotide Sequence Database Collaboration indicated that it was working with relevant partners in a number of countries to expand the number of member countries that host database nodes, including in developing countries. Work to increase capacity to host and manage databases could be included in capacity-building activities carried out as part of non-monetary benefit-sharing (see sect. C).

**Para. 54: The factors to be considered in the regular monitoring of the operation and performance of the mechanism;**

60. The Co-Chairs heard that it would be important to review the mechanism and the fund regularly to ensure that they meet all requirements laid out by the Conference of the Parties. In paragraph 19 of decision 15/9, the Conference of the Parties decided to review the effectiveness of the multilateral mechanism at its eighteenth meeting, including, *inter alia*, the criteria laid out in paragraphs 9 and 10 of the decision. Paragraphs 37, 43, 44 and 45 provide some elements of this issue on which there is potential convergence.

61. Furthermore, in the light of the views expressed on a range of issues related to the operationalization of the multilateral mechanism, the Co-Chairs consider that the following elements, among others, might be considered to inform the review of the multilateral mechanism by the Conference of the Parties at its eighteenth meeting, recognizing that the discussion is ongoing:

- (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 DSI;
- (g) Information on the possible interactions between the multilateral mechanism and benefits from the utilization of genetic resources under the Convention and the Nagoya Protocol;
- (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 possible synergies between the operation of the multilateral mechanism and other multilateral access and benefit-sharing instruments.

62. In addition, in its recommendation 26/1, the Subsidiary Body on Scientific, Technical and Technological Advice invited the Co-Chairs 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, and it also invited the Working Group to develop options for the indicators on the sharing of benefits from the use of digital sequence information for possible inclusion in the monitoring framework for the Kunming-Montreal Global Biodiversity Framework established under decision 15/5.

63. Since the multilateral mechanism was established as part of the Kunming-Montreal Global Biodiversity Framework (decision 15/9, para. 16), the monitoring framework and the global review of collective progress in the implementation of the Framework decided under decision 15/6 are both relevant. Under the monitoring framework, the headline indicators for Goal C and Target 13 are C.1 (indicator on monetary benefits received) and “C.2 (indicator on non-monetary benefits). In its recommendation 26/1, the Subsidiary Body on Scientific, Technical and Technological Advice proposed that those indicators be reworded along the lines of “monetary benefits received in accordance with applicable internationally agreed access and benefit-sharing instruments” and “non-monetary benefits arising from applicable international access and benefit-sharing instruments”, respectively. Thus, benefits received through the multilateral mechanism will be part of those indicators. In discussing document CBD/SBSTTA/26/INF/12, the Co-Chairs heard some support for disaggregating the headline indicators by relevant access and benefit-sharing instrument.

64. The Co-Chairs note that the monitoring framework currently contains a placeholder for a binary indicator on DSI in Target 13. The Co-Chairs heard that Parties want to develop further the design of the multilateral mechanism before finalizing that indicator, but propose that the following serve as a placeholder for now: “number of countries taking administrative, policy or legislative measures pursuant to decision 16/- on the operationalization of the multilateral mechanism”.

**Para. 55: Whether the multilateral mechanism has implications for data governance;**

**Para. 56: How the mechanism could operate in a way that is consistent with open access to data in public databases;**

**Para. 57: Whether and, if so, how, the multilateral mechanism should operate in a way that does not affect the current operations or working practices of public databases;**

**Para. 58: Whether the mechanism should agree to, and encourage the use of, data governance guidelines that encourage the application of the findability, accessibility, interoperability and reusability (FAIR) principles and the collective benefits, authority to control, responsibility, ethics (CARE) principles in an integrated and balanced way;**

65. It is established in the criteria included in paragraphs 9 and 10 of decision 15/9 that the multilateral mechanism should be consistent with open access to data, and the Co-Chairs heard continued support for this. However, as mentioned in the reflections on paragraph 4 on trigger points, they also heard that the multilateral mechanism could have an impact on data governance if the trigger point for benefit-sharing was linked with access to data, and many warned against such an approach. Others noted the potential for collaborations with database providers to contribute to increasing transparency and the responsibility of actors in the multilateral system.

66. For example, the Co-Chairs heard wide agreement that all steps should be taken to encourage the provision of accurate geographical information at the point at which data are uploaded to public

database, as well as support for the FAIR and CARE principles (which are acknowledged in decision 15/9).

67. Potentially, also, databases could be used to raise awareness of the multilateral mechanism and of obligations to share benefits (see para. 4).

68. The Co-Chairs also suggest that the possible implications of the multilateral mechanism on data governance, including impact on open access and on public databases (further to paras. 56 to 58), be included in the review of the mechanism planned for the eighteenth meeting of the Conference of the Parties.

**Para. 59: How the multilateral mechanism will operate in a way that respects the rights of indigenous peoples and local communities over their traditional knowledge, traditional knowledge associated with genetic resources and genetic resources;**

69. In its decision 15/9, the Conference of the Parties recognized that indigenous peoples and local communities should benefit from the benefits arising from the use of DSI and, as noted in paragraph 19 of the report, there was already potential convergence at the first meeting of the Working Group that the fund should be able to allocate funding to indigenous peoples and local communities in all regions.

70. The Co-Chairs note that the Conference of the Parties specified in its decision 15/4 that the Kunming-Montreal Global Biodiversity Framework, of which the multilateral mechanism is a part, was to be understood, acted upon, implemented, reported and evaluated consistent with the rights of indigenous peoples and local communities, among others.

71. The Co-Chairs were also invited to consider the Environmental and Social Framework of the World Bank,<sup>6</sup> Performance Standard 7, on indigenous peoples, of the International Finance Corporation,<sup>7</sup> the United Nations Declaration on the Rights of Indigenous Peoples and the following candidate principles from the International Indigenous Forum on Biodiversity:

- (a) Principle of beneficence “do no harm”, ensuring societal, social, and cultural safety and security;
- (b) Principle of respect for rights including the collective rights of indigenous peoples;
- (c) Principle of conflict resolution (remedy for harm or violation of rights);
- (d) Principle of consultation and prior informed consent; free, prior and informed consent; and approval and involvement;
- (e) Principle of equity of relationship;
- (f) Principle of full and effective participation;
- (g) Principle of transparency and accountability;
- (h) Principle of safeguards;
  - a. Implementation of principles through capacity building – two-way learning, mutual learning;
  - b. Principle of capacity building – two-way learning, mutual learning.

72. With respect to how particular species, places or other labelled characteristics of DSI may be treated in relation to the multilateral mechanism, the Co-Chairs heard that DSI from some species or places, potentially those considered sacred by indigenous peoples and local communities, should only be extracted and uploaded to public databases with the explicit consent of the relevant communities, or not at all. A list of such species or places could be requested from indigenous people

<sup>6</sup> See [www.worldbank.org/en/projects-operations/environmental-and-social-framework](http://www.worldbank.org/en/projects-operations/environmental-and-social-framework).

<sup>7</sup> See [www.ifc.org/en/insights-reports/2012/ifc-performance-standard-7](http://www.ifc.org/en/insights-reports/2012/ifc-performance-standard-7).

and local community organizations. Where such data are already in public databases, the relevant community should be consulted as to the appropriateness of its use.

## **E. Relation to other approaches and systems**

### *Elements on which there is potential convergence*

**Para. 60:** Depending on its final form, the multilateral mechanism could learn from a number of existing approaches and systems, such as community protocols and examples of monetary and non-monetary benefits;

**Para. 61:** There needs to be ongoing coordination and cooperation with the other forums that are considering benefit-sharing from the use of digital sequence information on genetic resources or related issues (e.g. the International Treaty on Plant Genetic Resources for Food and Agriculture, the Commission on Genetic Resources for Food and Agriculture of the Food and Agriculture Organization of the United Nations, the World Health Organization, the 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, and the World Intellectual Property Organization) to ensure legal clarity and enable the multilateral mechanism to be mutually supportive of and adaptable to the other instruments while recognizing that other forums may develop specialized approaches;

73. The Co-Chairs met with the Co-Chairs of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of the International Treaty on Plant Genetic Resources for Food and Agriculture on their respective processes and points of information-sharing in the future.

74. In addition, the informal advisory group on DSI has benefited from the involvement of representatives of the Division for Ocean Affairs and the Law of the Sea of the United Nations Secretariat, the Food and Agriculture Organization of the United Nations, the International Treaty on Plant Genetic Resources for Food and Agriculture, the World Intellectual Property Organization and the World Health Organization.

75. The Secretariat is in regular communication with each of the aforementioned agencies.

### *Elements on which there is a need for further discussion*

**Para. 62.** Whether and if so, how an inter-forum body or process on access and benefit-sharing for digital sequence information on genetic resources could facilitate coordination among the forums considering digital sequence information on genetic resources;

76. The Co-Chairs found a limited appetite for the establishment of a formal inter-forum process inside the time-bound window for implementing decision 15/9 by the sixteenth meeting of the Conference of Parties. Instead, sustained and intentional flow of information among instruments seemed to be the preferred approach. However, the Co-Chairs also heard strong interest in ensuring, in the medium term, that the multilateral mechanism retains the flexibility to be able to include other instruments at a moment appropriate to their own processes, should they choose to do so. The Co-Chairs heard at a high level how the mechanism of the Convention on Biological Diversity would need to be designed to retain that flexibility.

**Para. 63:** For models where the multilateral mechanism operates alongside bilateral arrangements for access and benefit-sharing on digital sequence information on genetic resources, issues for further discussion include:

(a) Whether and how any such models could be designed in such a way to meet the criteria set out in paragraphs 6 to 10 of decision 15/9 and the mandate set out for the Ad Hoc Open-Ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources;

(b) The practical means of implementing these models;



- (c) **Whether the risk of double payment is significant or problematic;**
- (d) **Whether arrangements would need to be put in place to prevent jurisdiction shopping;**
- (e) **The advantages and disadvantages of using such models on a time-limited basis;**
- (f) **Whether it would be appropriate for Parties that do and those that do not operate national access and benefit-sharing measures on digital sequence information on genetic resources to benefit from the multilateral mechanism to the same extent.**

77. The Co-Chairs heard a variety of views regarding the treatment of DSI from countries with national access and benefit-sharing rules that regulate access to DSI.

78. Some suggested that Parties choosing to enforce existing access and benefit-sharing rules on DSI after an agreed point in the future should not benefit from the multilateral mechanism; others suggested that the long-term inclusion of such Parties in the multilateral mechanism was not necessarily problematic. Some related points were discussed as follows:

(a) Some observed that those Parties that are both in the multilateral mechanism and maintain national access and benefit-sharing rules on DSI might in principle receive “double payment”. There were a variety of views on that risk. Some believed that this was a practical risk to research, and that it would discourage the use of DSI from those jurisdictions with national access and benefit-sharing rules, therefore reducing the benefits shared with that country and the quality of science being conducted. Others felt that those risks were less significant, or that double payment was not in fact an issue at all: “one” payment would be for access to DSI from the specific jurisdiction, and the “other” payment would be for using the DSI subsequently deposited in the public databases. Last, some were concerned about the costs of compliance with multiple regulatory systems, and the risk that the mechanism could consist of an impractical number of bilateral DSI systems in addition to the multilateral one;

(b) Most recognized that it was not credible to expect those with existing legislation to remove their national rules until the multilateral mechanism was demonstrably working and that significant benefits were flowing. Building on this, some suggested that it could be possible to decide on a timeline for those with national legislation including DSI to decide to give them up in order to gain full access to benefits from the multilateral mechanism, subject to a demonstration that benefits were flowing. Others suggested that this decision was premature;

(c) Some expressed the view that national rules could run alongside the mechanism in perpetuity: the national rules would govern access to genetic resources and the DSI that is extracted from it up to the point of deposition in public databases. The multilateral mechanism would then apply starting at access of DSI from those public databases, and their subsequent use in research and innovation;

(d) In the situation where the national legislation requires the sharing of benefits from the use of DSI extracted from their genetic resources beyond the point of deposition in public databases, the practical challenges of implementing that regulation would create significant challenges in tracing which DSI had been used and by whom to generate which particular product.

**Para. 64: How to ensure that the multilateral mechanism does not run counter to Articles 15.1 and 15.7 of the Convention.**

79. The Co-Chairs heard that a decision of the Conference of the Parties at its sixteenth meeting could not, as a matter of fact, run counter to a State’s sovereign rights over its genetic resources or supersede their obligations as described in paragraph 7 of Article 15 of the Convention. The Co-Chairs also heard agreement that Parties would retain their sovereign rights over access to their genetic resources and that it would be for each Party, acting as a sovereign entity, to decide how to implement the decision of the Conference of the Parties at its sixteenth meeting according to their national circumstances.

**Para. 65: Whether the scope of the multilateral mechanism, either initially or in future, should be extended to include genetic resources;**

80. The Co-Chairs heard that existing processes for securing access to genetic resources were sometimes cumbersome and that current arrangements could hinder research and development, as well as the fair and equitable sharing of benefits. However, they heard only limited appetite for designing a multilateral mechanism that would regulate the access to and use of genetic resources. The Co-Chairs heard a clear desire to prioritize designing and operationalizing a multilateral mechanism for DSI that met the principles laid out in decision 15/9.

81. However, the Co-Chairs also heard that many would like the multilateral mechanism on DSI to be designed in such a way that it could in principle be extended to genetic resources in the future. In other words, if the mechanism is proven to be effective and generates significant benefits, some Parties are open to considering expanding its scope to physical genetic resources in future. Some suggested that as a potential initial expansion of scope, the multilateral mechanism could, in the future, pilot covering those physical resources that are not otherwise regulated under the Nagoya Protocol or are outside of national jurisdiction.

**Para. 66: Whether the multilateral mechanism could conflict with mutually agreed terms on access and benefit-sharing under the Nagoya Protocol that include digital sequence information on genetic resources and, if so, how they could be reconciled.**

82. The Co-Chairs heard that at the start of the research and development value chain, access to a genetic resource is regulated under the Nagoya Protocol or the Convention and would therefore be subject to prior informed consent and mutually agreed terms. This might or might not include permission to extract DNA from the genetic resource, use it for a specific project and upload the sequence data and metadata to a public database. Further along this value chain, any DSI accessed or downloaded from public databases would then be subject to the terms of the multilateral mechanism under discussion. The “boundary” between treatments arises at the point of deposition of DSI in an open database. On the basis of this understanding of the “boundary”, there would not seem to be a conflict (see also para. 63).

**Para. 67: Whether the multilateral mechanism could learn from approaches under the Nagoya Protocol, such as customary laws, community protocols and procedures.**

83. The Co-Chairs heard suggestions that the multilateral mechanism can learn from the approaches under the Nagoya Protocol to customary laws, community protocols and procedures when considering the requirement in decision 15/9 that monetary and non-monetary benefits arising from the use of DSI should, inter alia, benefit indigenous peoples and local communities. Some also pointed out that those protocols and procedures were designed for access to and utilization of genetic resources and might therefore not be directly applicable to the access to and utilization of DSI.

**Para. 68: How the multilateral mechanism could be designed so as not to undermine the rights and responsibilities that exist under the Protocol and to be without prejudice to national access and benefit-sharing measures.**

84. In paragraph 11 of decision 15/9, the Conference of the Parties agreed that “the approach to fair and equitable benefit-sharing from the use of digital sequence information on genetic resources set out in the ... decision does not affect existing rights and obligations under the Convention and the Nagoya Protocol, including, as applicable, those related to traditional knowledge and the rights of indigenous peoples and local communities, and is without prejudice to national access and benefit-sharing measures.”

85. The Co-Chairs’ reflections on this point are addressed under paragraphs 63, 64 and 66.

**Para. 69: Whether any coordination and cooperation with other forums should also include the United Nations Educational, Scientific and Cultural Organization and possibly others.**

86. The Co-Chairs did not hear any particular views on this issue during the intersessional process. In decision 15/9, the Conference of the Parties acknowledged the recommendations set out in the United Nations Educational, Scientific and Cultural Organization “Recommendation on Open Science”.

**Para. 70: How to ensure the mechanism is future proof and captures, inter alia, the results of artificial intelligence applied to digital sequence information on genetic resources.**

87. The Co-Chairs heard the view that it was important to “future-proof” the multilateral mechanism, but also some scepticism that this could be achieved. Future consideration of this issue may be informed by a number of studies that are currently under way by partners.

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