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INTERIM Draft report from the small group considering certificates

15 July 2026 ongoing work of the Steering Committee on the Certificate pursuant to paragraph 15 of the annex COP decision 16/2

Report on discussions

1. In the annex to decision 16/2, paragraph 15 states that contributors making monetary payments to the fund in line with the modalities in the decision will receive a certificate that excludes them from any expectation to further share monetary benefits from the use of DSI within the scope of the multilateral mechanism for that year. , and paragraph 26 of the same annex invites Parties which have in place national access and benefit-sharing measures, to align these with the MLM, such that there is no duplication of expectations to share the benefits arising from the use of DSI under the multilateral mechanism.
2. In paragraphs 9 and 10 of decision 15/9, COP set out nine criteria that the MLM should adhere to - *e.g.* efficiency, feasibility, more benefits than costs, effectiveness, legal certainty and clarity, support innovation, open access, lawfulness, mutual supportiveness, rights of indigenous peoples and local communities.
3. The Steering Committee considers that the certificate is a cornerstone of the MLM to achieve these nine criteria, in particular the legal clarity and certainty for both countries and contributors required by paragraph 9(d) decision 15/9. Therefore, following discussions on the topic, and given that only modest contributions have been received by the Cali Fund to date, the Committee developed the reflections presented in this document.
4. The Steering Committee identified three main issues linked to the certificates and their issuance: (a) the governance to issue the certificate; (b) the legal effect of the certificate within national legal frameworks; (c) the scope of the certificate.

a. The Process and Governance to issue an MLM Certificate of Compliance (“Governance”)

The Steering Committee considered there is need for clarity on procedural aspects relating to the issuance of certificates, including (i) the roles of relevant actors including *e.g.* Parties, Steering Committee, interim Secretariat, and contributing entities; (ii) operational procedures and administrative arrangements between them to support certificate issuance; and (iii) information, declaration or verification of modalities agreed by COP. Based on its work so far, the Steering Committee notes that, pursuant to the Terms of Reference adopted in alignment with Enclosure IV of Decision 16/2, the Steering Committee, with the support of its interim Secretariat, is responsible for supervising the issuance of certificates to contributing entities under the MLM. The Steering Committee further considers that appropriate governance arrangements should be developed to support the issuance, legal recognition and effective operation of certificates, taking into account the criteria set out in paragraph 9 of Decision 15/9 and taking account of the reflections under paragraph 4(b), below.

b. Legal Effect of the Certificate for both Contributors and Countries (“Effect”)

The Steering Committee considered questions relating to the legal effect of the MLM Certificate of Compliance. The Decision provides for a certificate that excludes contributors from any expectation to further share monetary benefits. This requires the certificate to be recognized by Parties as satisfying any relevant national access and benefit-sharing legal or regulatory obligations under their national ABS laws in line with paragraphs 15 and 26 of Decision 16/2. In this regard, the Steering Committee

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recognizes that, in line with the principle of national sovereignty, only Parties can grant the legal effect of certificates within their domestic legal systems. After discussions, the Steering committee is seeking innovative arrangements in which certificates legally guarantee no duplicative benefit-sharing expectations under national ABS laws (see Annex).

c. **Clarity on the Scope of the Certificate for both Contributors and Countries (“Scope”)**

Since certificates are expected to exempt users from benefit-sharing expectations, the Steering Committee considered questions relating to the scope of the compliance provided by the certificate. This includes clarity on entities covered by the certificate; in relation to what types of use (e.g. R&D, intellectual property or commercialization); the subject of such use (what constitutes publicly available digital sequence information on genetic resources); the period of validity of the certificate (one year as from the issue of the certificate or from the date of contribution?) and the jurisdictions in which this certificate has legal effect. The Steering Committee concluded on the importance of these questions for the practical operation of the MLM and the role of the Steering Committee in issuing these certificates. There were some initial views on potential elements for the certificate. Nonetheless, the Steering Committee concluded that further guidance from COP is required for the Steering Committee to finalize a template certificate and be able to deliver certificates to contributing entities.

5. Additional reflections of the discussion on this topic can be found in the minutes of the 4th meeting of the Steering Committee.

I. Advice to the COP

6. Based on the work undertaken by the Steering Committee on certificates, the Steering Committee is requesting the support of the COP by:
 - a. Welcoming the work undertaken by the Steering Committee with regards to certificates under paragraph 15 of Decision 16/2.
 - b. Recognizing that further work is required to operationalize paragraph 15 of Decision 16/2 and inviting the Steering Committee, with the support of its interim Secretariat, to continue developing practical arrangements relating to the issuance, legal effect and scope of certificates, taking into account the criteria in paragraphs 9 and 10 of Decision 15/9.
 - c. Reiterating the role of Parties in recognizing certificates and strongly urging them to recognize the certificate in accordance with their national laws and inviting Parties to communicate any measures recognizing or giving legal effect to such certificates to the Secretariat.

II. Potential Elements for the Certificate

1. The example below reflects one approach discussed by the Steering Committee and is presented without prejudice to future decisions regarding the design, operation or legal effect of certificates under paragraph 15 of Decision 16/2.
2. A certificate could include the following elements:

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III. Beneficiary of the Certificate

3. This Certificate confirms that the identified contributor(s), as designated by its identity and the business perimeter it has defined, participates in the multilateral mechanism and is excluded from any expectation to further share monetary benefits from the use of DSI within the scope of the multilateral mechanism for the period indicated.

IV. Contribution to the MLM

4. The Secretariat confirms that the user has made a monetary contribution to the multilateral mechanism for the relevant period in line with the modalities of COP Decisions [15/9, 16/2, 17/x ...]. This confirmation is based on the information made available to the Secretariat, as audited and verified by an independent third party.

V. Scope of Coverage

i. Material Scope

5. This Certificate applies to digital sequence information on genetic resources falling within the scope of the multilateral mechanism as defined by COP Decisions [15/9, 16/2, 17/x ...] and any subsequent decisions adopted by the Conference of the Parties.

ii. Activities covered

6. Subject to the modalities of the multilateral mechanism, this Certificate applies to the activities identified within its scope of coverage, including, as applicable, research, development, regulatory activities, intellectual property activities, licensing, collaboration and commercialization activities involving digital sequence information on genetic resources.

iii. Temporal Scope

7. This Certificate applies to the contribution period of [X years] and any scope of coverage associated with that contribution period as specified under the modalities of the multilateral mechanism.

iv. Relationship to other international ABS instruments

8. This Certificate is issued within the framework of the Convention on Biological Diversity and the multilateral mechanism established pursuant to Decisions 15/9 and 16/2. Its relationship with other international access and benefit-sharing instruments and processes shall be determined in accordance with applicable COP decisions and any relevant arrangements adopted by those instruments.

VI. Confirmation of Compliance with COP Decisions

9. This Certificate confirms that the user is considered to have fairly and equitably shared monetary benefits arising from the use of digital sequence information on genetic resources under the Multilateral Mechanism. Therefore, the user is free to conduct any research, development, regulatory, intellectual property, and commercial activities; and will not be subject to further monetary benefit-sharing obligations within any Party to the Convention on Biological Diversity.

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VII. Part B — National Recognition by Parties

10. This part reflects the recognition by a Party that, under its national legal framework, participation in the multilateral mechanism and the issuance of this Certificate give rise to legal consequences. It operationalizes the expectation that national access and benefit-sharing measures are aligned with the multilateral mechanism so as to avoid duplicative or conflicting monetary benefit-sharing requirements.

VIII. Form of Legal Effect

11. The recognizing Party confirms that, within its jurisdiction, this Certificate gives rise to a legally relevant outcome, which may take the form of a presumption that the user has complied with applicable benefit-sharing requirements, an administrative recognition or equivalence decision of the certificate Part A to national requirements, a permit or authorization under national ABS law covering the scope of the certificate, or an exemption from applicable ABS legislation. The specific form is to be decided by the CBD Party in line with its own legal system, provided it meets the requirements of paragraph 9 decision 15/9.

IX. Confirmation of compliance with the national requirements

The Party confirms that it recognizes the scope described in Part A, so that the contributor(s) will not be subject to additional benefit-sharing obligations under its national framework for the scope covered by the Certificate.

ANNEX: Elements of Discussion on the Certificate compiled by the Steering Committee during the COP16-COP17 Intersessional Period

Recognizing the technical, legal and operational complexity of the issues involved, the Steering Committee established a dedicated working group to take forward discussions and undertake further analysis of issues relating to the certificate. The working group subsequently reported its observations to the Steering Committee, which considered them through further discussions and exchanges among members and observers. The issues compiled in the present document reflect that ongoing work and state-of-play.

12. The issues considered by the Steering Committee are organized around three broad clusters: (a) procedural aspects relating to the issuance of a certificate; (b) questions relating to the legal effect and possible national recognition of the certificate; and (c) questions relating to the scope of the certificate.

X. Procedural Steps to issue an MLM Certificate following Payment

13. Paragraph 15 of Decision 16/2 provides that, for each year that users make monetary contributions to the MLM in line with its modalities, they will receive a certificate. During its discussions, the Steering Committee considered a number of procedural questions relating to the implementation of this provision, including the process through which a certificate may be issued, the roles of different actors, and the relationship between contributions, receipts and certificates.
14. In considering possible approaches to certificate issuance, the Steering Committee noted that Decision 16/2 provides that contributions may be made either directly to the Cali Fund or through national authorities. The Steering Committee therefore discussed the administrative process surrounding certificate issuance, including the timing of issuance and the distinction

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between, on the one hand, receipts issued pursuant to paragraph 14 of Decision 16/2 and on the other hand, certificates issued pursuant to paragraph 15.

15. The Steering Committee also considered issues relating to verification processes against agreed modalities, (commercial) information requirements and administrative arrangements that may be relevant to the issuance of certificates, including how any such arrangements could be designed in a manner that supports efficiency, legal certainty and clarity, while taking account of the need to protect commercially sensitive information.
16. The sections below summarize key issues considered by the Steering Committee, including areas where potential convergence was identified and issues on which further discussion may be required.

XI. Receipt confirming Contribution is different from Certificate confirming Compliance

17. The Steering Committee considered the relationship between receipts issued pursuant to paragraph 14 of Decision 16/2 and certificates issued pursuant to paragraph 15. Discussions focused on the distinct functions of these instruments, the roles of the entities involved in their issuance, and the timing of issuance where contributions are made either directly to the Cali Fund or through national authorities. The Steering Committee also considered questions relating to the point at which a contribution should be regarded as having been made for the purposes of certificate issuance.

Elements on which there is potential convergence

- Receipts and certificates serve distinct functions within the MLM framework.
- The UN MPTFO can issue the receipts for contributions made directly to the UN MPTFO.
- If payments are made through a national authority, it will be that authority's obligation to issue a receipt.
- The entity responsible for issuing receipts would be distinct from the entity responsible for issuing certificates, i. e., The UN MPTFO will not play a role in issuing certificates.

Elements on which there is a need for further discussion

- Administrative arrangements relating to contributions made through national authorities, including the issuance of receipts and the relationship between national and international processes.
- The point at which a contribution made through a national authority should be considered to have been made for purposes of certificate issuance, e.g., upon the entity paying to the national authority or when the money is transferred to the Cali Fund.
- The relationship between the timing of receipt issuance and certificate issuance, including whether these processes could occur simultaneously where different entities are involved.
- Opportunities to streamline administrative processes at scale, in a manner consistent with Decision 16/2 and the criteria set out in paragraph 9 of Decision 15/9, including efficiency and ensuring that implementation generates more benefits than costs.
- The conditions under which the certificate of compliance can be issued and what such a document certifies.

XII. Verification of whether modalities set out by COP are met

18. The Steering Committee considered issues relating to the verification of contributions for the purposes of certificate issuance under paragraph 15 of Decision 16/2. Discussions focused on how any

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verification process could be organized in a manner that supports legal certainty and clarity, while remaining efficient, scalable and consistent with the criteria set out in paragraph 9 of Decision 15/9.

Elements on which there is potential convergence

- Some form of confirmation may be required to determine whether contributions have been made in line with the modalities of the MLM for the purposes of certificate issuance.
- Any arrangements relating to verification should be designed in a manner that is efficient, administratively workable and capable of operating at scale.
- The governance arrangements supporting verification should have access to appropriate technical, legal and administrative capacity to carry out their functions in a manner consistent with the criteria set out in paragraph 9 of Decision 15/9.
- Any verification processes should not require the sharing of confidential information by contributors

Elements on which there is a need for further discussion

- Possible roles of the Secretariat, the Steering Committee and other actors in supporting any verification process associated with certificate issuance.
- How any verification arrangements associated with certificate issuance could be designed in a manner that respects the sovereign rights of Parties over their national access and benefit-sharing frameworks, while supporting the implementation of paragraph 15 of Decision 16/2.
- Approaches for ensuring that any verification arrangements remain efficient and cost-effective and contribute to the objective of generating more benefits than costs.

XIII. Process to issue the Certificate

19. The Steering Committee considered possible arrangements for the issuance of certificates under paragraph 15 of Decision 16/2. Discussions focused on the roles and responsibilities of relevant actors, including the Secretariat, the Steering Committee, Parties, national authorities, contributors and other entities that may support implementation of the MLM. Consideration was also given to how such arrangements could support legal certainty and clarity while remaining efficient, administratively simple and capable of operating on a global scale.

Elements on which there is potential convergence

- The roles and responsibilities of the various actors involved in certificate issuance should be clearly defined to support legal certainty, clarity and effective implementation of paragraph 15 of Decision 16/2.
- The Secretariat of the MLM is the entity that would issue the certificate under the MLM, which would be distinct from CBD Parties granting legal effect to that certificate under their national laws. Only CBD Parties can, in line with the principle of national sovereignty, grant legal effect of the certificate pursuant to their national legal systems. The Secretariat of the MLM cannot do so. CBD Parties would need to explicitly recognise that contributors which have received the Certificate of Compliance satisfy their relevant national access and benefit sharing regulations so that recipients of the certificate know which jurisdictions are covered.
- Administrative arrangements relating to certificate issuance should be designed in a manner that is efficient, transparent and consistent with the criteria set out in paragraph 9 of Decision 15/9, including the objective of generating more benefits than costs. Possible approaches for further refining operational procedures for certificate could include innovative public-private partnership arrangements.

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Elements on which there is a need for further discussion

- The precise roles of e.g. the Secretariat, the Steering Committee, Parties, national authorities, the contributors, and other actors in the process of issuing certificates.
- The information, documentation and administrative steps that may be required to support certificate issuance.
- The technical, legal and administrative arrangements that may be required to support implementation of paragraph 15 of Decision 16/2.

XIV. Information required from Contributors

20. The Steering Committee considered issues relating to information that may be required in connection with the issuance of a certificate under paragraph 15 of Decision 16/2. Discussions focused on how any information requirements could support legal certainty and clarity while remaining proportionate, administratively efficient and consistent with the need to protect commercially sensitive information.

Elements on which there is potential convergence

- Commercially sensitive and confidential information should be fully safeguarded in any arrangements relating to certificate issuance.
- Any information requirements and related governance should be designed in a manner that supports efficiency, administrative simplicity and the objective of encouraging participation in the MLM.
- Consideration of information requirements should take account of broader discussions relating to confidentiality and information management within the MLM.
- Contributors may be more comfortable providing such information to an independent intermediary that can independently audit and verify contributions against the modalities agreed by COP, while providing legal guarantees as regards confidentiality and non-disclosure.

Elements on which there is a need for further discussion

- The nature and extent of any information that may be required from contributors for the purposes of certificate issuance.
- Whether the information from contributors should include the scope of coverage they seek, including covered legal entities, business units, activities, jurisdictions, time period and any carve-outs, and how changes over time should be addressed.
- Whether the verification process should use an objective, administratively simple basis for assessing whether contributions are fair and equitable, including whether contribution levels should reflect declared coverage, independently audited confidential information, or other proxies for size and use.

XV. Certainty on Legal Effect through National Recognition of the Certificate

21. The Steering Committee considered issues relating to the legal effect of a certificate issued pursuant to paragraph 15 of Decision 16/2 and its potential interaction with national ABS frameworks. Discussions focused on the relationship between the certificate issued under the MLM and measures that Parties may adopt within their national legal systems to give the certificate legal effect under their national ABS frameworks.

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22. In this context, the Steering Committee discussed the distinction between the issuance of a certificate under the MLM and the legal effect that may be accorded to that certificate under national law. Discussions also considered how legal certainty and clarity for contributors could be supported while respecting the sovereign rights of Parties over their national ABS frameworks and the implementation of paragraph 26 of Decision 16/2.
23. The sections below summarize issues considered by the Steering Committee, including areas where potential convergence were observed and issues identified for further consideration.

XVI. How to grant legal effect to the certificate under national law?

24. The Steering Committee considered how a certificate issued pursuant to paragraph 15 of Decision 16/2 could interact with national legal frameworks and what approaches Parties may consider in determining the legal effect, if any, accorded to such certificates within their jurisdictions. Discussions also considered how legal certainty and clarity for contributors could be supported while respecting national sovereignty and the diversity of existing ABS frameworks.

Elements on which there is potential convergence

- The issuance of a certificate under the MLM is distinct from any legal effect that may be accorded to that certificate under national law.
- For the certificate to grant legal certainty to contributors, issuance by the MLM Secretariat will not be sufficient. Some form of recognition at national level is required to grant legal effect.
- In accordance with the principle of national sovereignty, decisions regarding the legal effect of certificates within domestic legal systems remain a matter for Parties.
- While granting legal effect to the certificate under CBD Parties' national law is beyond the scope of the Conference of the Parties; the process through which legal effect is granted may be facilitated through appropriate governance mechanisms of the MLM approved by the COP.
- Consideration of possible approaches to legal effect should take account of efficiency, administrative simplicity and the objective of generating more benefits than costs.

Elements on which there is a need for further discussion

- Which national legal pathways are sufficient to grant recognition, including decisions by competent authorities, ABS permits or authorizations, equivalence recognition, executive measures, legislative amendments, or amendments to related rules such as patent procedures.
- How legal certainty and clarity could be promoted where approaches to national recognition differ among Parties.
- Opportunities to facilitate coherence and consistency across jurisdictions while respecting national sovereignty and differences among domestic legal frameworks.
- If the mechanism is successful, CBD Parties may face a substantial administrative burden. A system that requires individual national review or recognition of hundreds of certificates each year may become difficult to operate, particularly for countries with limited administrative capacity. Thus, Parties may consider recognizing the MLM governance system that produces the certificate against which the Parties could then grant a recognition.
- The respective roles that Parties, the Conference of the Parties, the Secretariat and other relevant stakeholders may play in supporting implementation of paragraph 15 and paragraph 26 of Decision 16/2.

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XVII. Verification of whether modalities by the CBD Parties are met

25. The Steering Committee considered issues relating to the way Parties may take account of contributions made under the MLM when determining the legal effect of certificates within their national legal systems. Discussions focused on the relationship between contributions made “in line with the modalities” of the MLM, the indicative contribution rates adopted by the Conference of the Parties, and the potential implications for national recognition approaches.

Elements on which there is potential convergence

- CBD Parties have a key role in developing the appropriate governance structures to assess how the MLM modalities translate under the requirements of their national ABS laws.
- Only CBD Parties in exercise of national sovereignty could recognize that the MLM certificate satisfies any and all benefit-sharing expectations or obligations under their national (ABS) legal systems.
- Consideration of national recognition approaches of the MLM compliance certificate may require Parties to assess how contributions made under the MLM relate to the modalities set out in Decisions 15/9 and 16/2.

Elements on which there is a need for further discussion

- How Parties may determine whether contributions have been made “in line with the modalities” of the MLM for the purposes of national recognition.
- How indicative contribution rates may be taken into account in the context of national recognition, including whether and in what circumstances other contribution levels may be considered.
- The relationship between certificates issued under the MLM and existing national legal frameworks, including domestic due diligence, compliance or authorization mechanisms (e.g. UK, Switzerland, EU) that may apply to the use of DSI.
- Opportunities to promote legal certainty and coherence across jurisdictions while respecting national sovereignty and differences among domestic legal frameworks.

XVIII. Scope of the Certificate: Who, What, Where, and When?

26. The Steering Committee considered a range of issues relating to the scope of a certificate issued pursuant to paragraph 15 of Decision 16/2. Discussions focused on how the scope of any certificate may affect legal certainty and clarity for contributors, Parties and other stakeholders, as well as the practical implementation of the MLM.

27. Discussions touched upon a number of dimensions relevant to the scope of a certificate, including (i) the persons or entities covered, (ii) the DSI covered, (iii) the activities covered, (iv) the geographic reach of any recognition granted by Parties, and (v) the period for which any certificate may apply.

28. These discussions highlighted the importance of scope-related questions to the effective operation of the MLM and the potential legal certainty that a certificate may provide. At the same time, views differed on a number of issues, and limited convergence was identified so far. The Steering Committee nevertheless considered that the discussions were useful in identifying key issues that may merit further consideration as work on the certificate progresses. The sections below summarize the main topics discussed and areas where further analysis and discussion may be warranted.

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XIX. Who is covered?

29. The Steering Committee considered questions relating to the entities that may be covered by a certificate issued pursuant to paragraph 15 of Decision 16/2. Discussions focused on the meaning of the term “user” in Decision 16/2 and whether coverage should be limited to the legal entity making a contribution or could extend to other identified persons or entities associated with that contribution.

Topics identified for further consideration

- Whether a certificate should be linked solely to the contributing legal entity or whether it could also extend to other identified entities (e.g., business units, subsidiaries, corporate groups, product lines or other defined organizational structures).
- How the scope of covered entities may affect legal certainty, administrative feasibility and participation in the MLM, and that the certificate should identify the relevant entity with sufficient certainty.
- If certificates provide flexibility to accommodate different forms of organizational coverage (e.g., business units, subsidiaries, corporate groups, product lines or other defined organizational structures), how any such coverage could be clearly identified and reflected in the certificate.
- Whether and under what circumstances contributions could be made on behalf of identified users or groups of users.
- How different approaches to defining covered entities may affect legal certainty, administrative simplicity and implementation of the MLM.

XX. What is covered?

30. The Steering Committee considered questions relating to the material scope of a certificate issued pursuant to paragraph 15 of Decision 16/2. Discussions focused on how the scope of coverage under a certificate could be determined in a manner that supports legal certainty and clarity while remaining consistent with Decisions 15/9 and 16/2.

31. Decision 16/2 defines the scope of the MLM by reference to DSI that is publicly available, not subject to mutually agreed terms, and not covered by another international access and benefit-sharing instrument unless that instrument chooses the MLM for that purpose. While progress on this topic has been made over the past years, including through the work by the Ad Hoc Technical Expert Group on DSI and its report CBD/DSI/AHTEG/2020/1/7 from 20 March 2020, stakeholders expressed that further clarity is needed. The Steering Committee discussed a range of issues relating to the interpretation and practical application of these parameters in the context of a certificate.

Topics identified for further consideration

- The certificate should align with the modalities set out by Decisions 15/9, 16/2 and any future decisions of the Conference of the Parties.
- Whether additional clarity regarding terms such as “DSI” or “publicly available” may be relevant to the implementation of a certificate.
- Whether additional clarity regarding the meaning of “DSI” may be useful for the implementation of certificates and, if so, what sources or approaches may be relevant.
- How legal certainty can be obtained if the COP cannot agree on a definition of “DSI” or “publicly available”.

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- How certificates could operate in circumstances where Parties maintain differing approaches to the interpretation or definition of “DSI” or the term “publicly available”.
- Whether CBD Parties may decide to expand coverage of the certificate to all DSI or also cover physical genetic resources.
- Whether self-identification by contributors may play a role in determining the scope of certificate coverage, and what implications this may have for implementation, consistency and legal certainty.

XXI. What is the Relationship to other ABS Mechanisms?

32. The Steering Committee considered how a certificate issued pursuant to paragraph 15 of Decision 16/2 may interact with other international access and benefit-sharing instruments and processes. Discussions focused on the relationship between the MLM and other international arrangements that may address the use of DSI or related subject matter, as well as the implications for legal certainty, coherence and the practical implementation of the MLM.
33. The Steering Committee considered how certificates issued pursuant to paragraph 15 of Decision 16/2 may interact with other international access and benefit-sharing instruments and processes. Discussions focused on the relationship between the MLM and other international arrangements addressing DSI or related subject matter, taking into account paragraphs 1(c), 18 and 27 of Decision 16/2.

Topics identified for further consideration

- The relationship between certificates issued under the MLM and other international access and benefit-sharing instruments and processes.
- Interactions with other international ABS instruments should be addressed expressly, because Decision 16/2 excludes DSI covered under other instruments unless those instruments choose the MLM for that purpose.
- The importance of ensuring mutual supportiveness, coherence and legal certainty across international frameworks addressing DSI.
- Whether and under what circumstances other international instruments may choose to make use of, recognize, or otherwise interact with the MLM and certificates issued thereunder, e.g., through cross-treaty recognition under the Plant Treaty, WHO PABS and BBNJ.
- Possible approaches for avoiding duplicative monetary benefit-sharing expectations while maintaining legal certainty and clarity for contributors and Parties.
- How future developments under other international instruments and processes may affect the implementation and scope of certificates issued under the MLM.

XXII. Which activities are covered?

34. The Steering Committee considered questions relating to the activities that may be covered by a certificate issued pursuant to paragraph 15 of Decision 16/2. In particular, the Steering Committee discussed whether additional clarity may be useful regarding concepts such as “direct use,” “indirect use,” “benefit from,” “not use,” and “commercial activities,” and whether certificates should provide coverage across all commercial activities relating to DSI or distinguish between different categories of activities.

Topics identified for further consideration

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- The extent to which certificates should provide legal certainty and clarity across activities undertaken throughout the research, development, regulatory, intellectual property, licensing, collaboration, corporate transaction and commercialization lifecycle.
- How differing interpretations of activities involving DSI may affect the operation of certificates and national recognition measures.
- Whether “use” should be defined to cover activities that may trigger ABS obligations under national law, including acquisition, collection, classification, examination, investigation, research, development, analysis, transfer, storage, possession, ownership and commercialization.
- Whether more tailored definitions or tiers of coverage are needed for sectors that favour a narrower more proportional approach, without undermining legal certainty or creating inconsistent certificate coverage.
- How the scope of covered activities could be reflected in a certificate in a manner that is sufficiently clear for contributors, Parties and other stakeholders.

XXIII. Which jurisdictions are covered?

35. The Steering Committee considered questions relating to the geographic scope of legal certainty associated with a certificate issued pursuant to paragraph 15 of Decision 16/2. Discussions focused on how recognition of certificates by Parties may affect the practical value of certificates for contributors, as well as how different approaches to national recognition may interact with the multilateral character of the MLM.

Topics identified for further consideration

- Recognition by all 196 CBD Parties under their national legal systems is eventually needed for the certificate to provide legally enforceable certainty within each Party’s jurisdiction.
- How approaches to national recognition may affect incentives for participation in the MLM and the practical operation of certificates across multiple jurisdictions.
- How different levels of recognition across jurisdictions could be reconciled with the multilateral nature of the MLM and the objectives set out in Decisions 15/9 and 16/2
- Whether recognition by a critical mass of Parties with relevant ABS measures could contribute to the practical effectiveness of certificates and, if so, what factors may be relevant when considering such approaches.
- Whether contribution levels, activation of payments, or certificate scope may be linked to the number and type of jurisdictions granting recognition, including recognition by megadiverse countries.

XXIV. What time frame is covered?

36. The Steering Committee considered questions relating to the temporal scope of certificates issued pursuant to paragraph 15 of Decision 16/2. Discussions focused on the relationship between the annual contribution cycle established under paragraph 15 and the period for which legal certainty and recognition associated with a certificate may apply.

Topics identified for further consideration

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- Paragraph 15 of Decision 16/2 provides that certificates are issued for each year that users make contributions to the MLM and that users are considered to have met benefit-sharing expectations under the MLM for that year.
- The extent to which the annual contribution cycle established under paragraph 15 may influence the duration and practical effect of certificates.
- Whether any flexibility regarding the duration of certificates may be desirable, including in circumstances involving multi-year contribution commitments or other longer-term participation arrangements.
- Whether certificates issued in respect of a particular contribution year should provide certainty solely for that year or whether certain effects associated with the certificate should continue beyond the period of contribution.
- Whether additional parameters relating to the duration, renewal or cessation of certificates may be necessary to support the effective implementation of the MLM.

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