SPECIALIZED INTERNATIONAL ACCESS AND BENEFIT-SHARING INSTRUMENTS IN THE CONTEXT OF ARTICLE 4, PARAGRAPH 4, OF THE NAGOYA PROTOCOL

The Subsidiary Body on Implementation,

Welcoming the study into criteria to identify a specialized international access and benefit-sharing instrument, and a possible process for its recognition,

Recommends that the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol adopts a decision along the following lines:

The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,

Recognizing the need to strengthen coordination and mutual supportiveness among international instruments on access and benefit-sharing,

Acknowledging that any criteria to identify a specialized international access and benefit-sharing instrument and any process for recognition of such an instrument is not intended to create a hierarchy between the Nagoya Protocol and other international instruments,

1. Takes note of the criteria for specialized international access and benefit-sharing instruments in the context of Article 4, paragraph 4, of the Nagoya Protocol as set out in the annex below;

2. Invites other intergovernmental organizations, Parties and other Governments to seek coherence with the Nagoya Protocol by considering the criteria in the development and/or recognition of potential specialized international access and benefit-sharing instruments;

3. Invites other intergovernmental organizations and/or Parties or other Governments to share information with the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on steps taken towards the development and/or recognition of specialized international access and benefit-sharing instruments;

4. Requests the Executive Secretary to continue to follow developments in relevant international forums;

5. Invites Parties and other Governments to submit information on how specialized international access and benefit-sharing instruments are addressed in their domestic measures and requests the Executive Secretary to synthesize the information received for consideration by the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its fourth meeting;

6. Agrees to include a standing item on “cooperation with other international organizations” on the agenda of its future meetings to take stock of developments in relevant international forums including any information on specialized international access and benefit-sharing instruments recognized by another intergovernmental body and/or by a Party or group of Parties, with a view to enhancing mutual supportiveness between the Protocol and specialized international access and benefit-sharing instruments;

7. Invites Parties and other Governments to coordinate at the national level regarding access and benefit-sharing issues addressed in different international forums, as appropriate, in order to support a coherent international regime on access and benefit-sharing;

8. Invites also Parties and other Governments which are or may become Parties to the Nagoya Protocol and to a specialized international access and benefit-sharing instrument, as appropriate, to take steps to implement both instruments in a mutually supportive manner,
including with the participation of indigenous peoples and local communities, as appropriate, according to national circumstances.

Annex

Criteria for specialized international access and benefit-sharing instruments in the context of Article 4, paragraph 4, of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization

1. **Intergovernmentally agreed** — The instrument would be developed and agreed through an intergovernmental process. The instrument may be binding or non-binding.

2. **Specialized** — The instrument would:
   
   (a) Apply to a specific set of genetic resources and/or traditional knowledge associated with genetic resources which would otherwise fall under the scope of the Nagoya Protocol;

   (b) Apply to specific uses of genetic resources and/or traditional knowledge associated with genetic resources which require a differentiated and hence specialized approach.

3. **Mutually supportive** — The instrument would be consistent with, supportive of, and not run counter to the objectives of the Convention on Biological Diversity and the Nagoya Protocol, including with respect to:

   (a) Consistency with biodiversity conservation and sustainable use objectives;

   (b) Fairness and equity in the sharing of benefits;

   (c) Legal certainty with respect to access to genetic resources or traditional knowledge associated with genetic resources and to benefit-sharing as well as compliance;

   (d) Contribution to sustainable development, as reflected in internationally agreed goals;

   (e) Other general principles of law, including good faith, effectiveness and legitimate expectations.