



Convention on Biological Diversity

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CONFERENCE OF THE PARTIES TO THE CONVENTION
ON BIOLOGICAL DIVERSITY SERVING AS THE
MEETING OF THE PARTIES TO THE NAGOYA
PROTOCOL ON ACCESS TO GENETIC RESOURCES
AND THE FAIR AND EQUITABLE SHARING OF
BENEFITS ARISING FROM THEIR UTILIZATION

Third meeting

Sharm El-Sheikh, Egypt, 17-29 November 2018

Agenda item 18

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

Draft decision submitted by the Chair of Working Group I

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 study¹ and potential criteria for specialized international access and benefit-sharing instruments in the context of Article 4, paragraph 4, of the Nagoya Protocol as summarized in the annex below, and *agrees* to reconsider these potential criteria at its fourth meeting;

2. *Invites* Parties and other Governments to submit:

(a) Information on how specialized international access and benefit-sharing instruments are addressed in their domestic measures;

(b) Views on the potential criteria contained in the study, taking into account Article 4, paragraphs 1 to 3, of the Protocol;

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

4. *Also requests* the Executive Secretary to synthesize the information and views submitted, including the information from developments in relevant international forums, and make it available for consideration by the Subsidiary Body on Implementation at its third meeting;

5. *Requests* the Subsidiary Body on Implementation at its third meeting to consider the synthesis referred to in paragraph 4 above and to make a recommendation to the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its fourth meeting;

¹ “Study into criteria to identify a specialized international access and benefit-sharing instrument, and a possible process for its recognition” (CBD/SBI/2/INF/17).

6. *Decides* 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* 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, where relevant or applicable, according to their national circumstances.

Annex

Potential 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

The following is a summary of the potential 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, as described in the study contained in document CBD/SBI/2/INF/17. The potential criteria are under discussion and have not been agreed by Parties to the Protocol.

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 and 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;

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

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