

Non-paper

(new text is shown in bold)

The Open-Ended Working Group on the Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources

Recommends that, at its sixteenth meeting, the Conference of the Parties adopt a decision along the following lines:

The Conference of the Parties,

[placeholder for preambular paragraphs]

1. ***Adopts*** the modalities for operationalizing the multilateral mechanism for the fair and equitable sharing of benefits from the use of digital sequence information on genetic resources, including a global fund, as set out in the annex to the present decision;
2. *[placeholder for any necessary additional operational paragraphs]*

Annex

Modalities for operationalizing the multilateral mechanism for the fair and equitable sharing of benefits from the use of digital sequence information on genetic resources, including a global fund

1. Users of digital sequence information on genetic resources (DSI) that generate **profits**/revenue from the use of DSI will contribute to the global fund.

2. The following options are proposed:

Option A

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

Option B

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

Option C

Contribution of one per cent of the retail value of all products and services linked to the utilization of biological resources.

3. All users of DSI, subject to their individual circumstances, should share non-monetary benefits arising from the use of DSI through the multilateral mechanism, for the purposes of **capacity-building and development, technology transfer and technical and scientific cooperation to support the generation, use and storage of digital sequence information on genetic resources**. Such non-monetary benefits may include those listed in enclosure B.

4. Entities operating public databases on DSI are encouraged to make information about the multilateral mechanism available to those accessing the databases, including the requirements for users of DSI related to the fair and equitable sharing of benefits arising from the use of DSI.

4bis. Entities operating public databases on DSI are encouraged to require, where possible, the provision of information on the country of origin of DSI and to apply the findability, accessibility, interoperability and reusability (FAIR) and collective benefits, authority to control, responsibility, ethics (CARE) principles to governance of data.

5. Parties are to take administrative, policy or legislative measures to encourage and enable businesses to contribute to the global fund in line with the provisions of the multilateral mechanism set out in the present decision, and, in the case of large and transnational companies, to facilitate or ensure such contributions.

6. Contributions to the global fund may be made directly or through a relevant national authority.

7. Users that make contributions to the fund in line with the provisions of the multilateral mechanism set out in the present decision are considered to be in conformity with the requirements related to the fair and equitable sharing of benefits arising from the use of DSI under the Convention on Biological Diversity.

8. Additional contributions to the global fund from businesses, non-profit or philanthropic organizations and Governments are encouraged.

9. Funding in the global fund should be allocated in a fair, equitable, transparent, accountable and gender-responsive manner.

10. Funding should be used primarily to support the realization of the objectives of the Convention and the achievement of the goals and targets of the Kunming-Montreal Global Biodiversity Framework, in particular through the delivery of activities described in national biodiversity

strategies and action plans. Funding may support conservation and sustainable use and the building of the capacity to generate, access, use, analyse and store DSI.

11. Funding will be allocated taking into account the overall level of funding available in the global fund and each country's biodiversity richness and level of development, with at least X per cent set aside to support the priority needs of indigenous peoples and local communities.

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

Option A

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

Option B

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

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

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

12bis. The multilateral mechanism and its fund will operate according to the principles of inclusivity, equity and transparency.

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

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

14bis. The multilateral mechanism will be implemented in cooperation with other international access and benefit-sharing instruments, with a view to enhancing mutual supportiveness.

14ter. The multilateral mechanism, including the global fund, will operate under the supervision and guidance of the Conference of the Parties.

15. The effectiveness of the multilateral mechanism, including the fund, will be reviewed by the Conference of the Parties at its eighteenth meeting and at regular intervals thereafter, against the principles established in decision 15/9 and according to the factors set out in enclosure E, noting also the relevance of the review of the Framework as a whole due to be conducted at the eighteenth

meeting of the Conference of the Parties further to decisions 15/5 and 15/6. The review of effectiveness will include a review of the interaction between the mechanism and any existing national arrangements for access and benefit-sharing on DSI.

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

Enclosure A

Sectors or subsectors highly dependent on the use of DSI:

- 1. Pharmaceuticals, such as pharmaceuticals manufacturing, biopharmaceutics and life science research;**
- 2. Cosmetics, such as the development and production of new cosmetics or the production of existing cosmetics using synthetic production means;**
- 3. Plant and animal breeding and agricultural biotechnology, such as agricultural technology (which includes plant breeding and crop modification research, genetic modification of livestock, support activities for plant production and veterinary pharmaceuticals, crop protection products, animal breeding, plant breeding and improving food safety);**
- 4. Industrial biotechnology;**
- 5. Laboratory equipment associated with the sequencing and use of DSI;**
- 6. Information, scientific and technical services related to DSI (information services such as software and artificial intelligence used to characterize and analyse or store big data associated with DSI, as well as industrial sequencing or characterizing of DSI as a third-party producer for other industries, such as pharmaceuticals, cosmetics and agriculture).**

The present list will be kept under review.

Enclosure B

Non-monetary benefits

- 1. 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, gain access to, 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.**
- 2. The work to facilitate capacity-building and development, technical and scientific cooperation and technology transfer and development of 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, gain access to, 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.**

3. Target beneficiaries of capacity-building and development include indigenous peoples and local communities, women, youth, Governments and researchers.

4. Non-monetary benefits from the use of digital sequence information on genetic resource may include:

(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 development;

(c) Making the product available in the public domain;

(d) The licensing of products free of charge;

(e) Training in topics related to the conservation and sustainable use of genetic diversity or associated traditional knowledge;

(f) The free distribution of products in social interest programmes;

(g) The establishment of national or global databases;

(h) Promoting joint research partnerships;

(i) Joint ventures;

(j) The sharing of research and development results;

(k) Collaboration, cooperation and contribution in scientific research and development programmes, in particular biotechnological research activities;

(l) The joint ownership of relevant intellectual property rights.

Enclosure C

Initial formula for allocation

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

Enclosure D

Terms of reference for the Expert Group on Allocation Methodology

1. The mandate of the Expert Group on Allocation Methodology is to provide technical advice and guidance on remaining and unresolved issues relating to the disbursement of funds from the global fund established in decision 15/9 (para. 16), and on the basis of para. xx of decision 16/--. In particular, the Expert Group will develop an allocation methodology for disbursing funding from the global fund for consideration by the Conference of the Parties at its seventeenth meeting.

2. The Expert Group will comprise 10 technical experts nominated by Parties, 7 experts nominated by representatives of indigenous peoples and local communities from the seven biocultural regions and 4 experts from relevant organizations. The Executive Secretary, in consultation with the Bureau, will select experts on the basis of nominations received by Parties, taking gender and the relevant technical expertise of the candidates into account and applying the procedure for avoiding or managing conflicts of interest set out in decision 14/33.

3. The Expert Group may draw on existing expertise and liaise with relevant organizations, as appropriate, in the execution of its mandate.

4. Subject to the availability of financial resources, the Expert Group will meet, as needed, to ensure the timely provision of advice and will, wherever possible, meet back-to-back with other relevant meetings. Where possible, the Secretariat will use available means of electronic communication to reduce the requirement for in-person meetings.

Enclosure E

Factors to be considered in the review

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

(a) Amount of funds mobilized through the global fund, in total and disaggregated by contributors and recipients (countries and indigenous peoples and local communities);

(a)bis. The list of sectors, as provided in enclosure A, taking the experience of the multilateral mechanism and new technical and commercial developments into account;

(b) Summary information on the activities supported by the fund;

(c) Estimates of the scope and value of the non-monetary benefits facilitated by the multilateral mechanism;

(d) An assessment of the efficiency of the multilateral mechanism, taking the costs of its operations into account;

(e) An assessment of the contribution of the multilateral mechanism to the realization of the three objectives of the Convention;

(f) An assessment of the effectiveness of the multilateral mechanism in providing legal certainty to providers and users of digital sequence information on genetic resources (DSI);

(g) Information on the possible interactions between the multilateral mechanism and benefits from the utilization of genetic resources under the Convention on Biological Diversity and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization;

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

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

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

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