

NON-PAPER

[Global] [multilateral] [solution[s] for sharing of benefits from the use of] digital sequence information on genetic resources

The Conference of the Parties,

Recalling that the Convention on Biological Diversity and the Nagoya Protocol and other access and benefit-sharing instruments provide the legal framework for access to genetic resources and the fair and equitable sharing of the benefits arising from their utilization,

Recalling decision 14/20,

Noting the outcomes of the science- and policy-based process on digital sequence information on genetic resources established in decision 14/20,¹

Noting also the Informal Co-Chairs' Advisory Group on digital sequence information on genetic resources established by the Co-Chairs of the Open-Ended Working Group on the Post-2020 Global Biodiversity Framework and the Executive Secretary, and the work on digital sequence information on genetic resources undertaken by the Advisory Group, including consideration of policy options,²

Further noting the work of the Ad Hoc Open-Ended Working Group on the post-2020 Global Biodiversity Framework, in particular the information in the note by the Executive Secretary on digital sequence information on genetic resources (CBD/WG2020/5/3),

[Recognizing the view that digital sequence information on genetic resources is not within the scope of the Convention on Biological Diversity [, and that further clarification may be needed on the scope as well as on other legal aspects related to digital sequence information on genetic resources,]]

Recognizing that digital sequence information on genetic resources is under consideration in other United Nations bodies and instruments,

Further recognizing that any solution for the fair and equitable sharing of benefits from the use of digital sequence information on genetic resources should be mutually supportive of and [adaptable][adaptive] to other fora while recognizing that specialized instruments may develop their own approaches,

Acknowledging that [greater] generation of, access to, and use of digital sequence information on genetic resources combined with the possible fair and equitable sharing of the benefits arising from their use supports research [and innovation] [and bioeconomy] and contributes to achieving the three objectives of the Convention and sustainable development,

Emphasizing the importance of capacity-building and development, technology transfer and technical and scientific cooperation to support access to, and generation, analysis and use of digital sequence information on genetic resources,

Recognizing the importance of digital sequence information on genetic resources for the post-2020 global biodiversity framework,

Recognizing that a solution for benefit-sharing from the use of digital sequence information on genetic resources is also a wide-ranging solution for the mobilization of resources to support the conservation and sustainable use of biological diversity,

¹ CBD/DSI/AHTEG/2020/1/2; CBD/DSI/AHTEG/2020/1/3; CBD/DSI/AHTEG/2020/1/4; CBD/DSI/AHTEG/2020/1/5; Report of the Ad Hoc Technical Expert Group on Digital Sequence Information on Genetic Resources, CBD/DSI/AHTEG/2020/1/7.

² CBD/WG2020/3/INF/8; CBD/WG2020/4/INF/4; CBD/WG2020/5/INF/1.

Welcoming the efforts of databases, including the International Nucleotide Sequence Database Collaboration, to encourage the tagging of records with information on the geographical origin,

Recognizing that a solution on benefit-sharing from the use of digital sequence information on genetic resources may include innovative revenue generation measures,

Noting that the differences between public and private databases should be considered in the development of a solution on benefit-sharing from the use of digital sequence information on genetic resources,

Recognizing [the challenge of developing a definition][the different understandings of the concept and scope] of digital sequence information on genetic resources, and the range of views regarding the need to define such concept and scope,

1. *[Agrees on][Decides to]* the continuing use of the term ‘digital sequence information’ [as a placeholder] for further discussion;

2. *[Agrees][Decides]* that digital sequence information is the result of the utilization of genetic resources and benefits from its use should therefore be shared fairly and equitably;

3. *Considers* that the distinctive practices in the use of digital sequence information on genetic resources require a distinctive solution for benefit-sharing;

4. *Encourages* those depositing digital sequence information on genetic resources in databases to provide information on geographical origin and other relevant metadata, and to deposit more digital sequence information on genetic resources;

5. *Recognizes* that tracking and tracing of all digital sequence information on genetic resources is not currently feasible;

6. *Recognizes* that a purely bilateral approach to benefit-sharing from the use of digital sequence information on genetic resources is unlikely to meet the criteria identified in paragraph 8, and that a multilateral approach has the most potential to meet these criteria;

6. Alt.1a *Recognizes* that a purely bilateral approach to benefit-sharing from the use of digital sequence information on genetic resources is unlikely to meet the criteria identified in paragraph 8;

6. Alt.1b *Recognizes* that a multilateral approach is necessary to share benefits from most of the uses of digital sequence information on genetic resources assessed so far;

6. Alt.2a *Recognizes* that a bilateral approach to benefit-sharing from the use of digital sequence information on genetic resources is unlikely to meet the criteria identified in paragraph 8;

6. Alt.2b *Further recognizes* that a multilateral approach has the most potential to be a good basis for developing a solution to the sharing of benefits from the use of digital sequence information on genetic resources;

7. *[Agrees][Considers]* to develop a solution for the sharing of benefits arising from the use of digital sequence information on genetic resources;

8. *[Agrees][Decides]* that a solution for fair and equitable benefit-sharing on digital sequence information on genetic resources should, inter alia³:

- (a) Be efficient, feasible and practical;
- (b) Generate more benefits, including both monetary and non-monetary, than costs;
- (c) Be effective;

³ CBD/WG2020/REC/3/2

- (d) Provide certainty and legal clarity for providers and users of digital sequence information on genetic resources;
- (e) Not hinder research and innovation;
- (f) Be consistent with open access to data;
- (g) Not be incompatible with international legal obligations;
- (h) Be mutually supportive of other access and benefit-sharing instruments;
- (i) Take into account the rights of indigenous peoples and local communities, including with respect to the traditional knowledge associated with genetic resources that they hold;

9. *Recognizes* that the monetary and non-monetary benefits arising from the use of digital sequence information on genetic resources should, in particular, be used to support conservation and sustainable use of biodiversity and inter alia benefit indigenous peoples and local communities;

10. *[Agrees][Decides]* that the approach set out in this decision to fair and equitable benefit-sharing from the use of digital sequence information on genetic resources 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 taken under the Convention and the Nagoya Protocol;

11. *Welcomes* section H of the post-2020 global biodiversity framework, the long-term strategic framework for capacity-building and development⁴ and the strengthening of technical and scientific cooperation in support of the post-2020 global biodiversity framework⁵;

12. *Calls for* specific and targeted capacity-building and development, technology transfer upon mutually-agreed terms and technical and scientific cooperation, as appropriate, to support developing countries, in particular the least developed countries and small islands developing States among them, as well as the most environmentally-vulnerable countries and Parties with economies in transition, to access, use, generate and analyse digital sequence information on genetic resources, and to support the adoption and implementation of measures to benefit from its use taking into account the needs and priorities referred to in Annex I. In doing so, Parties should support the capacity needs and priorities of indigenous peoples and local communities and relevant stakeholders, as identified by them, emphasizing the capacity needs and priorities of women;

13. *Recalls* the proposed policy options for a solution on benefit-sharing from the use of digital sequence information on genetic resources as contained in the annex to recommendation WG2020-5/2;

****** EITHER OPTION A OR OPTION B******

OPTION A

14. *Alt.1 Decides* to [identify a][find a practical] solution for the sharing of benefits resulting from the use of digital sequence information on genetic resources [to be finalized and established][to be reported for consideration] at COP16 through the fair, transparent, inclusive, participatory and time-bound process described in paragraphs 15 to 18 below;

14. *Alt.2 Establishes* a fair, transparent, inclusive, participatory and time-bound process to further analyse, identify potentially most workable and practical options for and define modalities to operationalize a mechanism for sharing benefits from the use of digital sequence information on genetic resources for a decision at COP16 as set out in paragraphs 15 to 18 below. This process should take into account and build

⁴ Decision 15/--.

⁵ Decision 15/--.

upon the outcomes of the work done by the informal Co-Chairs' advisory group, the criteria laid out in paragraph 8;

15. *Establishes* an Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources to consider the studies and the synthesis of views and develop recommendations for [processes][a solution] on benefit-sharing from the use of digital sequence information on genetic resources, taking into account the criteria identified in paragraphs 8 and 9 of this decision, for consideration by the Conference of the Parties at its sixteenth meeting. The Working Group should look, in particular, at the items identified in Annex II;

OPTION B

14. *Alt.3 Establishes* a global mechanism for benefit-sharing from the use of digital sequence information on genetic resources ~~[as described in Annex I]~~, without prejudice to existing national legislative arrangements for sharing the benefits which arise from the use of digital sequence information on genetic resources;

14.*Alt.4.a Decides* to establish, as part of the post-2020 global biodiversity framework, a global mechanism for benefit sharing from the use of [biodiversity, including] digital sequence information on genetic resources, considering national access and benefit-sharing regulations, ~~[as outlined in Annex I]~~, and a fair, transparent, inclusive, participatory and time-bound process to further develop and refine the operability of such mechanism, as outlined in paragraphs 15 to 18 below, to be finalized at COP16;

14. *Alt.4.b Further decides* to review the effectiveness of the global mechanism at COP17, including, inter alia, the criteria laid out in paragraph 8;

15. *Establishes* an Ad Hoc Open-Ended Working Group on the Global Mechanism for Benefit-sharing to undertake further development of the global mechanism, including the elements identified in Annex II;

***** *END OF OPTION B* *****

16. *Invites* Parties, other Governments, indigenous people and local communities and relevant organizations to submit views on the issues set out in Annex II;

17. *Requests* the Executive Secretary, to compile and synthesize the views submitted pursuant to paragraph 16 above and make them available to the Open Ended Working Group;

18. *Requests* the Executive Secretary, subject to the availability of resources, to commission studies the following studies and make them available to the Open Ended Working Group:

(a) To commission a study on the operation of and lessons learned from other international funding mechanisms, such as the Benefit-Sharing Fund of the International Treaty on Plant Genetic Resources for Food and Agriculture, the World Health Organization Pandemic Influenza Preparedness Framework, and the Small Grants Programme of the Global Environment Facility;

(b) To commission a study to analyse and model the extent to which a global mechanism for benefit-sharing from the use of digital sequence information on genetic resources, and any other options the Ad-Hoc Open-ended Working Group may decide, meets the criteria in paragraphs 8 and 9 of this decision;

(c) [The availability of information on the geographical origin of digital sequence information on genetic resources and of traditional knowledge;]

(d) [Various options for raising funds at the point of commercialization as well as other points further up the value chain, how these could be implemented, and what monetary benefits could be derived from them][options for revenue generating measures including modelling and forecasting potential revenue

from the option, the feasibility of the implementation of the option and the costs of the option relative to potential revenue].

Annex I

Capacity-building needs and priorities

Capacity-building needs and priorities may include:

- (a) Establishing new and expand existing -omics and bioinformatics capacity building research and training programs;
- (b) Diversifying the geographical location of biodata resources and their funders;
- (c) Creating a scientific matchmaking platform to facilitate DSI-based capacity building ‘matches’ and to support quantification of non-monetary benefit-sharing;
- (d) Establishing a global, free DNA sequencing platform.

Annex II

Issues for further consideration

- (a) Governance of the fund;
 - (b) Triggering points for benefit-sharing;
 - (c) Contributions to the fund;
 - (d) Disbursement of monetary benefits;
 - (e) Non-monetary benefit-sharing;
 - (f) Capacity development and technology transfer;
 - (g) Monitoring and evaluation and review of effectiveness;
 - (h) Relationship with the Nagoya Protocol;
 - (i) National systems;
 - (j) Role, rights and interests of indigenous peoples and local communities, including associated traditional knowledge;
 - (k) Role and interests of industry and academia;
 - (l) Research and technology;
 - (m) Implications of tracking and tracing.
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