Agenda item 11
Digital sequence information on genetic resources
Working Group I

Digital sequence information on genetic resources

Friends of the Chair's non-paper

The Conference of the Parties,

Recalling decisions 15/9 of 19 December 2022, and 16/2 of 1 November 2024,

1. *Recalls* that the Multilateral Mechanism for the Fair and Equitable Benefit Sharing from the Use of Digital Sequence Information on Genetic Resources, including the Cali Fund, operates under the authority and guidance of and is accountable to the Conference of Parties, in accordance with decision 16/2;

2. *Also recalls* that the Cali Fund is currently administered by the United Nations through the Multi-Partner Trust Fund Office, as foreseen in decisions of the Conference of Parties at its sixteenth meeting;

3. *Acknowledges* that the 'Standard Memorandum of Understanding to establish the partnership between United Nations Organizations' and to open a Fund administered by the Multi-Partner Trust Fund of the United Nations contains language which sets the basis of this partnership as agreed by [the Members to] the United Nations and approved by the UN Sustainable Development Group, and that in consequence, some adjustments may be proposed to the text to ensure its consistency with decision 16/2 and the authority and guidance of the Conference of the Parties over the Multilateral Mechanism, including the Cali Fund;

4. *Also acknowledges* that the signatories of the Memorandum of Understanding of the Cali Fund are the UNDP, the UNEP, and the SCBD, as an agreement with the MPTFO, and that the legal and fiduciary responsibility that it engages is required to align with their established legal framework;

5. *Further acknowledges* that the Multilateral Mechanism, including the Cali Fund, is to be reviewed by the Conference of the Parties at its eighteenth meeting, and that this review is inclusive of governance of the Mechanism, including the Memorandum of Understanding, its annexes and the Steering Committee's terms of reference and modus operandi;

6. *Considers* that the Memorandum of Understanding of the Multilateral Mechanism and its annexes, including the Cali Fund should align with decision 16/2 and decision 15/9 and that the Memorandum of Understanding and its Annexes should reflect that the Cali Fund is a Fund to facilitate monetary benefit-sharing from the use of Digital Sequence Information on Genetic Resources;

7. *Therefore calls upon* the signatories of the Memorandum of Understanding of the Cali Fund to adjust terminology in the Memorandum of Understanding from donor/donations to contributor/contributions, consistent with the benefit-sharing arrangements established under decision 16/2;

8. *Notes* that the Steering Committee was convened for the first time only then after the signature of the Memorandum of Understanding by the United Nations Partners and the Multi-Partner Trust Fund Office;

9. *Decides* to establish a legal experts group with one member, with experience on similar agreements and mechanisms, nominated by each UN region and one from indigenous peoples and local communities, according to the established procedures, with a mandate to

examine, with the support of the legal experts of United Nations Participating Organizations and the Multi-Partner Trust Fund Office, as well as an observer from the business sector, the language of the Memorandum of Understanding including its annexes and the Steering Committee's terms of reference and operations manual, assess their optimal alignment with decision 16/2, and to produce a report on this alignment, including any clarifications, amendments or corrective measures, as applicable and as necessary, to preserve the benefit-sharing nature of the Cali Fund, ensure transparency and accountability, clarify institutional mandates and responsibilities~~;~~

10. *Also decides* that this group shall meet at least once in person, subject to the availability of resources, with additional online meetings as needed;

11. *Requests* the Executive Secretary, subject to the availability of resources, to:

(a) Facilitate the formation of this group through a call for nomination;

(b) Support this group in its work according to the mandate in paragraph 9;

(c) Report the outcomes of this work to the Steering Committee of the Multilateral Mechanism, including the Cali Fund, for its technical review and comments, without prejudice to the recommendations of the legal experts group;

(d) Communicates the report of the group and the outcomes of the review of the Steering Committee to the Subsidiary Body on Implementation for their consideration [and] with a view to make a recommendation to the Conference of the Parties at its eighteenth meeting for its consideration and approval, as appropriate;

12. *Considers* that in order for the good functioning and capitalization of the Multilateral Mechanism including the Cali Fund, the Memorandum of Understanding as is currently drafted will continue to apply and the contributors will be duly informed about the ongoing process on MOU pursuant to this decision and that provisions of the MOU may be altered modifying any rights that may be arising pursuant to the MOU;

13. *Also decides* that the Steering Committee may make modifications to operational documents other than the Memorandum of Understanding in the event that it is needed to ensure their responsibilities in the functioning of the Multilateral Mechanism, in particular not to delay the capitalization of the Fund, such as a structural approach, provided that such modifications do not alter the governance arrangements established under decision 16/2, without prejudice to the outcome of the work of the Legal Expert Group.

From document CBD/COP/17/2, item 11 – Proposed replacement text

14. *Decides* that future members of the Steering Committee shall be nominated by the respective regional groups and constituencies, possessing appropriate qualifications related to access and benefit sharing or finance, as determined by their nominating regional groups and constituencies, so as to ensure the effective exercise of the functions of the Committee;

15. *Requests* the Executive Secretary to facilitate the nomination process related to paragraph 14 above accordingly;

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