

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

0 **Users of digital sequence information on genetic resources (DSI) on genetic resources should share benefits arising from its use.**

1. **Companies** using DSI that generate profits/revenue/**turnover** from **its** use will contribute to the global fund, **where their turnover is more than XXX United States dollars per year.**

2. The following options are proposed:

Option A. **Companies** will contribute X per cent of the profits/revenue/**turnover** 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 rely on** the use of DSI will contribute X per cent of their profits/revenue/**turnover**. A list of such sectors is contained in enclosure A.

Option C. Contribution of 1 per cent of the retail value of all products and services linked to the utilization of **digital sequence information on genetic resources**/biological resources.

Option D Companies which actively use DSI are encouraged to contribute a portion of their revenue/profit to the global fund.

3. Users of DSI should share non-monetary benefits, **including through** capacity-building and development, **knowledge-sharing**, technology transfer and technical and scientific cooperation, **including** to support, **among other things**, the generation of, **access to and** use and storage of **DSI**, as well as the self-identified needs of indigenous peoples and local communities, **including**, women and youth. The sharing of non-monetary benefits will build on ongoing activities, and will be facilitated through the long-term strategic framework of the Convention for capacity-building and development and its mechanism to strengthen technical and scientific cooperation in support of the Kunming-Montreal Global Biodiversity Framework. It could also be facilitated through a clearing house under the Convention, which could provide information on demand for capacity-building and examples of ongoing non-monetary benefit-sharing. The sharing of non-monetary benefits could be further facilitated by the global fund.

4. Entities operating public databases on DSI **should:**

(a) Make information about the multilateral mechanism available to those accessing their databases, including the requirements for users of DSI related to the fair and equitable sharing of benefits arising from the use of DSI;

(b) **Inform users of the requirement to comply with applicable national and international access and benefit-sharing obligations with respect to digital sequence information;**

(c) Require, where possible, the provision of information on the country of origin of **the genetic resources from which DSI was derived**, as well as, **when applicable, traditional knowledge associated with those genetic resources;**

(d) Apply the findability, accessibility, interoperability and reusability (FAIR) and collective benefits, authority to control, responsibility, ethics (CARE) principles to **data governance**, as well the recommendations set out in the United Nations Educational, Scientific and Cultural Organization “Recommendation on Open Science”.

5. Parties **should** take administrative, policy or legislative measures, **consistent with national legislation, to facilitate or require** contributions to the global fund in line with the **modalities of the multilateral mechanism**.
6. Contributions to the global fund may be made directly or through a **respective** national authority, **as determined by the relevant Government**.
7. Users that make **monetary** 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 **multilateral mechanism, and receipts will be issued annually for each year that contributions are made**.
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 support conservation and sustainable use of biological diversity and the building of the capacity to generate, access, use, analyse and store DSI. In particular,** funding should be used 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, **including through** the delivery of activities described in national biodiversity strategies and action plans.
11. Funding will be allocated taking into account the overall level of funding available in the global fund and **an interim formula, as set out in enclosure C. X per cent of the global fund will be** set aside to support the **self-identified** needs of indigenous peoples and local communities, **including women and youth. 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 established with the terms of reference provided in enclosure D;**
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, **as described in paragraph 11. The fund will be** administered by an international entity.

Option B

Funding will be disbursed through direct allocations to countries, **as described in paragraph 11.** The fund will be administered by an international entity. 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, **which should only be provided with their free, prior and informed consent.**¹

14. Where Parties put in place national measures on access and benefit-sharing from DSI, they should be in alignment with the multilateral mechanism and should not result in a duplication of the benefits shared from the use of DSI.

14bis. The multilateral mechanism will be implemented in cooperation with other international access and benefit-sharing instruments associated with the use of DSI, with a view to enhancing mutual supportiveness and coherence. It should be able to adapt in response to developments in other forums, and this could be facilitated through, for example, a collective arrangement with those instruments.

14ter. The multilateral mechanism, including the global fund, will operate under the **authority** and guidance of **and be accountable to** the Conference of the Parties.

15. The effectiveness of the multilateral mechanism, including the **global** fund, will be reviewed by the Conference of the Parties at its eighteenth meeting and at **every second subsequent meeting of the Conference of the Parties**, against the principles established in decision 15/9 and according to the factors set out in enclosure E **and a methodology to be adopted by the Conference of the Parties at its seventeenth meeting**, 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.

15bis. The review will also be informed by the relevant indicators of the monitoring framework for the Kunming-Montreal Global Biodiversity Framework, including the headline indicators for Goal C and Target 13, and a binary indicator for Target 13.²

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

¹ All references to “free, prior and informed consent” refer to the tripartite terminology of “prior and informed consent”, “free, prior and informed consent” or “approval and involvement”.

² Under the monitoring framework adopted by decision 15/5, the headline indicators for Goal C and Target 13 are C.1 (indicator on monetary benefits received) and C.2 (indicator on non-monetary benefits). In its recommendation 26/1, the Subsidiary Body on Scientific, Technical and Technological Advice proposed that those indicators be reworded along the lines of “monetary benefits received in accordance with applicable internationally agreed access and benefit-sharing instruments” and “non-monetary benefits arising from applicable international access and benefit-sharing instruments”, respectively. The monitoring framework currently contains a placeholder for a binary indicator on DSI in Target 13. The following serves as a placeholder for now: “number of countries taking administrative, policy or legislative measures pursuant to decision 16/-- on the operationalization of the multilateral mechanism”.

Enclosure A

Indicative list of sectors or subsectors **reliant on the use of digital sequence information on genetic resources**

1. Sectors or subsectors reliant on the use of DSI include:
 - (a) Pharmaceuticals, such as pharmaceuticals manufacturing, biopharmaceutics and life science research;
 - (a)bis Nutraceuticals (food and health supplements);**
 - (b) Cosmetics, such as the development and production of new cosmetics or the production of existing cosmetics using synthetic production means;
 - (c) 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);
 - (d) Industrial biotechnology;
 - (e) Laboratory equipment associated with the sequencing and use of DSI, **including reagents and supplies;**
 - (f) 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).
2. The present list will be kept under review.

Enclosure C

Initial formula for allocation

To be elaborated **at the sixteenth meeting of the Conference of the Parties, taking into account:**

- (a) Biodiversity richness (terrestrial, freshwater and marine) and related concepts, such as endemism and threat;**
- (b) Capacity needs, taking into account the circumstances of developing countries, in particular the least developed countries and small island developing States, and those with economies in transition.**

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 **sociocultural** 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 **into account** the costs of its operations **and the suitability of the trigger for monetary contributions**;
- (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 **any** 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 **any** 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 **any** 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 **any** 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 **any** implications on research and innovation, **including potential implications for data governance**;
- (k) Information on the interactions and **any** synergies between the operation of the multilateral mechanism and other multilateral access and benefit-sharing instruments.
- (l) **A review of the interaction between the multilateral mechanism and any existing national arrangements for access and benefit-sharing on DSI.**