



Convention on Biological Diversity

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Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources

First meeting

Geneva, 14–18 November 2023

Agenda item 3

**Issues for further consideration set out
in the annex to decision 15/9**

Possible elements of a multilateral mechanism for benefit-sharing from the use of digital sequence information on genetic resources, including a global fund*

Overall considerations

1. In decision 15/9, the Conference of the Parties to the Convention on Biological Diversity decided to establish a fair, transparent, inclusive, participatory and time-bound process to undertake further development of the multilateral mechanism.
2. The multilateral mechanism should contribute to the achievement of Target 13 and Goal C of the Framework.

A. Contributions to the fund

Elements on which there is potential convergence

3. The global fund should contribute to the achievement of Target 19 and Goal D of the Framework without changing the existing international obligations of all Parties to the Convention, including under Article 20, and can contribute to mobilizing new and additional means of implementation.

Elements on which there is a need for further discussion, also taking into account the studies commissioned under paragraph 22 of decision 15/9 of the Conference of the Parties:

4. Whether the following triggers could meet the criteria in paragraphs 9 and 10 of decision 15/9 and mobilize timely and predictable funding at the intended scale:
 - (a) Access to digital sequence information on genetic resources;
 - (b) Use of digital sequence information on genetic resources;
 - (c) Generation of revenue arising from the use of digital sequence information on genetic resources;

* The elements outlined in the present document provide a non-exhaustive list that Parties may wish to consider as a priority in future work. Parties retain the right to raise and consider additional elements in line with the annex to decision 15/9. Where lists are presented, the order is not intended to set a hierarchy or precedence among the items.

- (d) Commercialization of products derived from the use of digital sequence information on genetic resources;
 - (e) Any other triggers already identified or to be identified.
5. Whether in the case of a voluntary system, a trigger is needed.
 6. Whether all users of digital sequence information on genetic resources could be potential contributors to the mechanism.
 7. Whether donors, including Governments, should contribute to the fund, for example in its start-up phase to ensure sufficient initial capitalization, or make contributions on an ad-hoc or regular basis.
 8. Identification of possible effective incentives for voluntary contributions to the fund.
 9. How obligations for sharing the benefits from the use of digital sequence information on genetic resources in the multilateral mechanism can be created; whether this would facilitate a predictable level of contributions and fairness among potential contributors; and whether this could be done through a legally binding instrument or a non-legally binding framework and the timelines associated with these options.
 10. How the scale of contributions to the fund could be determined.
 11. Whether contributions to the fund should be proportionate to the revenue generated from the use of digital sequence information on genetic resources.
 12. The scale and sectors of the industries that use digital sequence information on genetic resources, including information on, for example, turnover, profit, people employed, countries of operation and reliance on digital sequence information on genetic resources.
 13. Which elements of the modality for assessing contributions would need to be agreed by the Conference of the Parties, and which could be left to the governing body of the fund
 14. Whether and how possible criteria for the scale of contributions could include:
 - (a) 1 per cent of the retail price of all commercial income net revenue from products resulting from all utilization of digital sequence information on genetic resources;
 - (b) The profits or revenue generated from the use of digital sequence information on genetic resources.

B. Disbursement of the fund

Elements on which there is potential convergence

15. The strategic priorities and disbursement criteria of the fund should be decided by the Conference of the Parties.
16. Funding should be directed towards activities that support the conservation and sustainable use of biodiversity and the implementation of national biodiversity strategies and action plans, especially in developing countries, in particular the least developed countries and small island developing States, as well as countries with economies in transition.
17. Funding could be directed towards other biodiversity-related priorities including the relevant Sustainable Development Goals.
18. Funding should be allocated in a fair, equitable, transparent, accountable and gender-responsive manner.
19. The fund should be able to allocate funding to indigenous peoples and local communities in all regions, in particular in developing countries.

20. Various factors could be used to determine the level of funding allocated, including:
 - (a) The self-identified needs of indigenous peoples and local communities, women and youth, taking into account their major contribution to the conservation and sustainable use of biodiversity;
 - (b) The biodiversity, ecological or ecosystemic richness of the country;
 - (c) The capacity needs of countries, in particular with regard to digital sequence information on genetic resources;
 - (d) Regional balance and particular consideration of the needs of developing countries
 - (e) Capacity needs with respect to conservation and sustainable use.

Elements on which there is a need for further discussion

21. How funds should be accessed by indigenous peoples and local communities, and whether they should be able to access the funds directly and/or indirectly and how they can be involved in the decision-making.
22. Whether or not countries that require, through national legislation, benefit sharing from the use of digital sequence information on genetic resources in international public databases should also receive benefits from the multilateral mechanism.
23. Whether funding should be disbursed according to country allocations, on a project basis, a combination thereof, or another modality altogether.
24. Whether the level of development of the country should be considered or assessed when allocating funding.
25. Whether the level of funding disbursed should always be on the basis of a needs assessment.
26. Whether funding allocations should be based at least in part on the geographical origin of the genetic resources from which the digital sequence information on genetic resources is derived, noting that current studies suggest there are only incomplete data available on geographical origin in databases.

C. Non-monetary benefit-sharing

Elements on which there is potential convergence

27. 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 in particular between developed and developing countries and in particular with respect to the ability to generate, access, 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.
28. Work to facilitate capacity-building and development and technology transfer and development on digital sequence information on genetic resources should contribute to the implementation of the relevant provisions on technical and scientific cooperation and technology transfer and development under the Convention, building on, inter alia, the

ongoing work under the Convention, including pursuant to decision 15/8 of the Conference of the Parties on capacity-building and development and technical and scientific cooperation, needs assessments, national biodiversity strategies and action plans, and the regional and/or subregional technical and scientific support centres;

29. The work to facilitate capacity-building and development, technical and scientific cooperation and technology transfer and development on 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, access, 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;
30. Target beneficiaries of capacity-building and development include indigenous peoples and local communities, women, youth, as well as Governments and researchers.
31. There are many ways in which non-monetary benefits are already being shared and the future sharing of non-monetary benefits should take into account lessons learned from those experiences.

Elements on which there is a need for further discussion

32. Whether there is a need for a new platform or facility for sharing non-monetary benefits such as technologies and capacities that are developed using digital sequence information on genetic resources and what the potential modalities would be.
33. Whether the needs of stakeholders could be a criterion for the sharing of non-monetary benefits, and if so, which stakeholders;
34. Whether non-monetary benefits from the use of digital sequence information on genetic resources could include the following:
 - (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 technology development;
 - (c) Making the product available in the public domain;
 - (d) Licensing of products free of charge;
 - (e) Training of human resources in topics related to the conservation and sustainable use of genetic diversity or associated traditional knowledge;
 - (f) Free distribution of products in social interest programmes;
 - (g) Establishment of national databases;
 - (h) Promoting joint research-partnerships;
 - (i) Joint ventures.

35. Whether the discussion on non-monetary benefit-sharing should take into account the outcomes of the meeting held in 2020 by the Ad Hoc Technical Expert Group on Digital Sequence Information on Genetic Resources with regard to key areas for capacity-building and development.¹
36. Whether the use of digital sequence information on genetic resources could serve as a trigger for non-monetary benefit-sharing.

D. Governance

Elements on which there is potential convergence

37. The multilateral mechanism will be guided by strategic principles set out by the Parties to the Convention including those in decision 15/9, in particular paragraphs 9 and 10;
38. The global fund should operate under the supervision and guidance of the Conference of the Parties;
39. There should be a governing body for the global fund, and it should operate in a transparent way;
40. The governing body of the fund should include Party representatives;
41. The private sector and other contributors should be able to contribute to the fund without significant administrative burden;
42. The fund should be able to receive and disburse funding soon after a decision is taken by the Conference of the Parties at its sixteenth meeting;
43. The operation of the multilateral mechanism should be monitored against the principles set out in decision 15/9, in particular paragraphs 9 and 10;
44. The monitoring and evaluation framework for the fund could be developed in coordination with the monitoring framework for the Kunming-Montreal Global Biodiversity Framework, and in particular for Target 13 and Goal C, and a system and associated capacity should be established for regular review;
45. The multilateral mechanism should be evaluated and reviewed in accordance with an agreed methodology in a transparent manner;
46. 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.

Elements on which there is a need for further discussion

47. Whether and how the governance of the fund should include the participation of representatives of
 - (a) Indigenous peoples and local communities;
 - (b) The private sector;
 - (c) Civil society;
 - (d) Youth;
 - (e) Women;
 - (f) Academia;

¹ See [CBD/DSI/AHTEG/2020/1/7](#), annex I, sect. III.

- (g) Non-Parties;
 - (h) Infrastructure and database providers;
 - (i) Other Access and Benefit Sharing instruments.
48. Options for new or existing funds which could host the global fund, including how quickly they could be operational;
 49. Options for revisions to the operating modalities of the Global Environment Facility or the Global Biodiversity Framework Fund, under request from the Conference of the Parties, to enable them to serve as the host of the global fund;
 50. Whether, and if so how, the work of the relevant advisory committees and advisory groups under the Convention could be taken into account in the work of the Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources, and vice-versa;
 51. How to ensure the global fund is consistent with principles of inclusivity, equity and transparency;
 52. The difference, if any, between governance of the mechanism as a whole and governance of the fund and the need for coherence between them;
 53. Whether and if so, how a family of linked databases under the mechanism should be created and any potential implications of this such as the possible fragmentation of databases;
 54. The factors to be considered in the regular monitoring of the operation and performance of the mechanism;
 55. Whether the multilateral mechanism has implications for data governance;
 56. How the mechanism could operate in a way that is consistent with open access to data in public databases;
 57. Whether and if so, how the multilateral mechanism should operate in a way that does not affect the current operations or working practices of public databases;
 58. Whether the mechanism should agree and encourage the use of data governance guidelines which encourages the application of the findability, accessibility, interoperability and reusability (FAIR) principles and the collective benefits, authority to control, responsibility, ethics (CARE) principles in an integrated and balanced way;
 59. How the multilateral mechanism will operate in a way that respects the rights of indigenous peoples and local communities over their traditional knowledge, traditional knowledge associated with genetic resources, and genetic resources;

E. Relation to other approaches and systems

Elements on which there is potential convergence

60. Depending on its final form, the multilateral mechanism could learn from a number of existing approaches and systems, such as community protocols and examples of monetary and non-monetary benefits;
61. There needs to be ongoing coordination and cooperation with the other forums that are considering benefit-sharing from the use of digital sequence information on genetic resources and related issues (e.g. the International Treaty on Plant Genetic Resources for Food and Agriculture, the Commission on Genetic Resources for Food and Agriculture of the Food and Agriculture Organization of the United Nations, the World Health Organization, the Agreement under the United Nations Convention on the Law of the Sea on the Conservation

and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, WIPO) to ensure legal clarity and enable the multilateral mechanism to be mutually supportive of and adaptable to the other instruments while recognizing that other forums may develop specialized approaches;

Elements on which there is a need for further discussion²

62. Whether and if so, how an inter-forum body or process on access and benefit-sharing for digital sequence information on genetic resources could facilitate coordination among the forums considering digital sequence information on genetic resources;
63. For models where the multilateral mechanism operates alongside bilateral arrangements for access and benefit sharing on digital sequence information on genetic resources, issues for further discussion include:
 - (a) Whether and how any such models could be designed in such a way to meet the criteria set out in paragraphs 6 to 10 of decision 15/9 and the mandate set out for the Ad Hoc Open-Ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources;
 - (b) The practical means of implementing these models;
 - (c) Whether the risk of double payment is significant and / or problematic;
 - (d) Whether arrangements would need to be put in place to prevent jurisdiction shopping;
 - (e) The advantages and disadvantages of using such models on a time-limited basis;
 - (f) Whether it would be appropriate for Parties that do and those that do not operate national access and benefit-sharing measures on digital sequence information on genetic resources to benefit from the multilateral mechanism to the same extent.
64. How to ensure that the multilateral mechanism does not run counter to Articles 15.1 and 15.7 of the Convention.
65. Whether the scope of the multilateral mechanism, either initially or in future, should be extended to include genetic resources;
66. Whether the multilateral mechanism could conflict with mutually agreed terms on access and benefit-sharing under the Nagoya Protocol that include digital sequence information on genetic resources and, if so, how they could be reconciled.
67. Whether the multilateral mechanism could learn from approaches under the Nagoya Protocol, such as customary laws, community protocols and procedures.
68. How the multilateral mechanism could be designed so as not to undermine the rights and responsibilities that exist under the Protocol and to be without prejudice to national access and benefit-sharing measures.
69. Whether any coordination and cooperation with other forums should also include UNESCO, WIPO and possibly others.
70. How to ensure the mechanism is future proof and captures, inter alia, the results of artificial intelligence applied to digital sequence information on genetic resources.

² The following paragraphs were considered in the review of document CBD/WGDSI/1/CRP.1.