



Convention on Biological Diversity

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**Global capacity-building workshop on
operationalizing access and benefit-sharing
national frameworks under the Nagoya Protocol**
Bonn, Germany, 30 September–3 October 2024

Report of the global capacity-building workshop on operationalizing access and benefit sharing national frameworks under the Nagoya Protocol

Introduction

1. The Global capacity-building workshop on operationalizing access and benefit-sharing national frameworks under the Nagoya Protocol was held in Bonn, Germany, from 30 September to 3 October 2024. It was hosted by the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection of Germany, with the financial support of the Government of Japan, through its Japan Biodiversity Fund, the Government of Denmark, the Government of Germany and the Access and Benefit-sharing Capacity Development Initiative.
2. During the workshop, participants were able to exchange experiences, best practices and lessons learned so as to advance efforts towards achieving Goal C under the Kunming-Montreal Global Biodiversity Framework through the implementation of access and benefit-sharing measures and institutional structures using straightforward and practical procedures, supported by organized and efficient information systems. The workshop provided an opportunity to explore and learn from existing best practices in order to develop systems to monitor the progress and effectiveness of implementation of access and benefit-sharing.
3. The workshop brought together experts in the area of access and benefit-sharing, partners and relevant stakeholders from around the world with a view to showcasing progress made, enabling the sharing of experiences and fostering peer-to-peer cooperation and learning with regard to addressing challenges arising in operationalization of access and benefit-sharing related to developing and implementing user-friendly access and benefit-sharing procedures, managing information on access and benefit-sharing, implementing compliance obligations and monitoring the utilization of genetic resources.
4. The workshop included both plenary and breakout group sessions and thematic presentations followed by question-and-answer sessions, group exercises and discussions. The 70 participants in the workshop represented 36 countries and 11 organizations.
5. A complete list of documents and presentations for this workshop, including the list of participants, is available at www.cbd.int/meetings/NP-CB-WS-2024-01.
6. The workshop was conducted in English.

Item 1**Opening of the workshop**

7. The workshop was opened on 23 October 2024 by the Executive Secretary of the Convention on Biological Diversity, Astrid Schomaker, through a recorded video statement. In her statement, she underscored the significance of the Nagoya Protocol in achieving the third objective of the Convention on Biological Diversity, namely, fair and equitable sharing of the benefits arising out of the utilization of genetic resources, and emphasized the inclusion of that objective under Goal C and Target 13 of the Kunming-Montreal Global Biodiversity Framework. Ms. Schomaker acknowledged that, while many Parties had established measures for access and benefit-sharing, it was at the same time crucial to explore how the operationalization of those measures could be optimized for greater effectiveness. She highlighted the valuable opportunity offered by the workshop for reflection, sharing of experiences and learning from others.

8. Additional welcoming remarks were provided by Birgit Winkel, the national focal point of Germany for access and benefit-sharing, and a representative of the Secretariat of the Convention, who welcomed participants to the workshop and underscored the value and importance of opportunities for in-person meetings for the exchange of experience on the practical operationalization of the Nagoya Protocol and the vital role that communication and cooperation between Governments and stakeholders played in implementing the Protocol.

Item 2**Workshop background, methodology and expectations**

9. A representative of the Secretariat outlined the objectives, methodology and expected outcomes of the workshop. The representative provided an overview of the agenda, explaining that on the first day of the workshop, the focus would be on communicating access procedures, responding to requests, processing applications and granting permits. On the second day of the workshop, the topics of negotiating mutually agreed terms, publishing permits, monitoring mutually agreed terms and tracking benefits received would be covered. On the third day, the discussion would shift to the subjects of compliance, designating checkpoints, gathering information and monitoring genetic resources. The representative noted that the last day would be dedicated to exploring future opportunities and cooperation and identifying the most useful experiences derived from the discussions held during the previous three days. The outcome would encompass the identification of projects for future funding as well as useful tips, lessons learned and insights for further dissemination.

10. To provide the broader context, another representative of the Secretariat delivered a presentation on Goal C and Target 13, which included information on indicators, national biodiversity strategies and action plans, capacity-building and national biodiversity financial plans.

Item 3**Sharing practical experiences operationalizing the Nagoya Protocol**

11. In preparation for the workshop, participants were invited to present an outline of their country's experiences with various aspects of implementing and operationalizing the Nagoya Protocol. The aim was for those presentations to document each country's experiences in translating their national legal frameworks for access and benefit-sharing into practice and provide content to be shared and discussed during the workshop.

12. On the first day and to set the stage for the sessions, a representative of the Secretariat outlined the overall set of actions and information-sharing needed to implement the Protocol, referred to as the ABS flow, which provided the basis for the organization of the workshop and the discussion of topics. ABS flow diagrams I and II below present a complete visual translation of Party obligations under the Protocol with a view to providing a holistic view of the way in which specific actions and

information-sharing work together to achieve the operationalization of the Protocol and the rationale for that approach.

13. In each session, a representative of the Secretariat presented a comprehensive overview covering the steps of the ABS flow. Those presentations provided essential information on processes and helped to ensure that participants had a solid basic understanding of those processes, how they worked together and were linked nationally and internationally, and the information required. Moreover, the presentations highlighted noteworthy examples of best practices drawn from the preparatory country presentations, illustrating what countries are doing to implement the Protocol in practice.

14. Participants from various countries were invited to take the floor and share their experiences in greater detail. That format allowed participants to elaborate on specific experiences and the challenges that they faced in implementing the Protocol which inspired rich discussions and the comments and reflections of other participants.

15. Furthermore, partners contributed through presentations on the support and resources they had been offering over the years to assist participants and countries in implementing the Protocol effectively. In those presentations, the importance of collaboration, capacity-building and development, communication and awareness creation were emphasized, as well as the support available for assisting countries so as to enable progress in implementation and achievement of successful outcomes.

16. Participants from organizations using genetic resources and associated traditional knowledge shared their perspectives, experiences and the practical implications of their work as related to how countries have been implementing the elements of the ABS flow. Their contributions, , highlighting the different viewpoints reflected in the implementation of the Nagoya Protocol, enriched the dialogue.

17. To encourage engagement and foster a dynamic atmosphere throughout the entire duration of the workshop, participants were encouraged to ask questions, share insights and connect with one another.

Item 4

Developing project proposals and elaborating case studies

18. A representative of the Secretariat indicated that, thanks to funding from the Government of Denmark, the Secretariat would be making limited funding available to support implementation of country-led projects aiming towards the improvement of the steps necessary for an efficient and effective “ABS flow at national level. He mentioned that a side event would be held on the margins of the sixteenth meeting of the Conference of the Parties to the Convention, at which further information would be provided.

Item 5

Conclusion and summary

19. The key conclusions arising from the dialogue are presented in annex II to the present report. All of the conclusions can be used both to facilitate the development of targets and the updating or revision of national biodiversity strategies and action plans with respect to Target 13 and Goal C of the Framework and to identify capacity and financial needs to be included in the capacity-building and the national biodiversity financial plans.

20. Participants were invited to fill out an evaluation form. The summary of the results is contained in annex III below.

Item 6

Closure of the workshop

21. Following the closing remarks of the representatives of the Secretariat, the workshop was closed, at 4 p.m. on 3 October 2024.

Annex I

Diagram I
Access and benefit-sharing flow: access

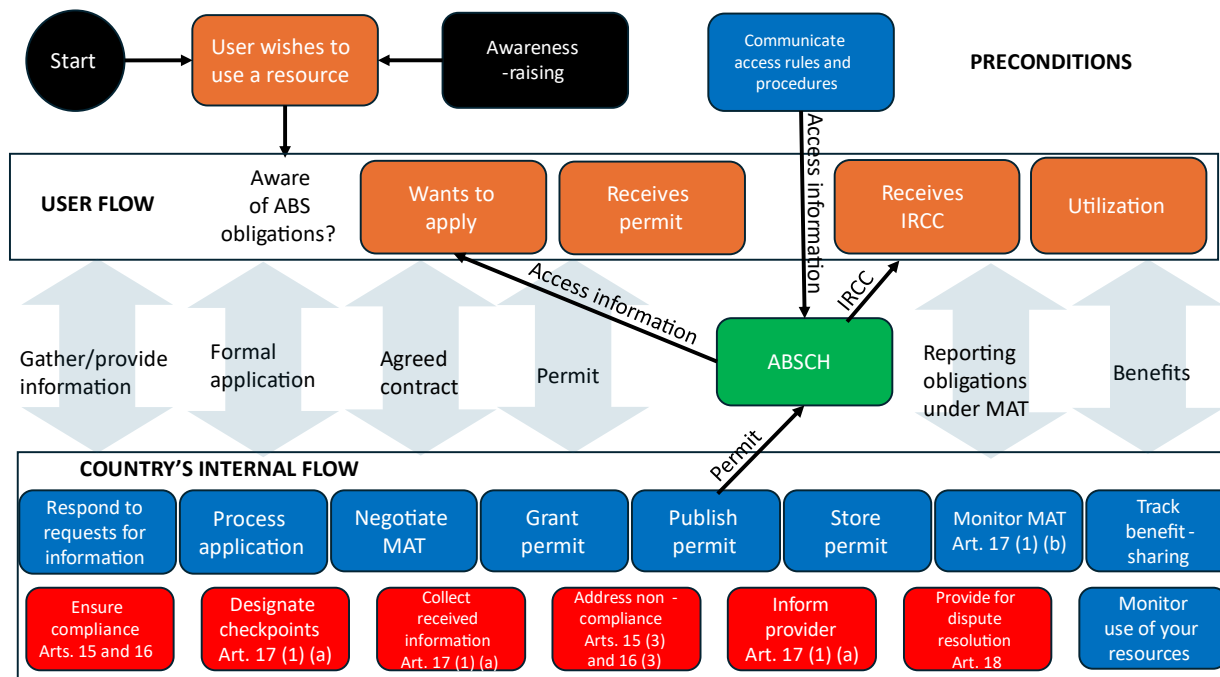
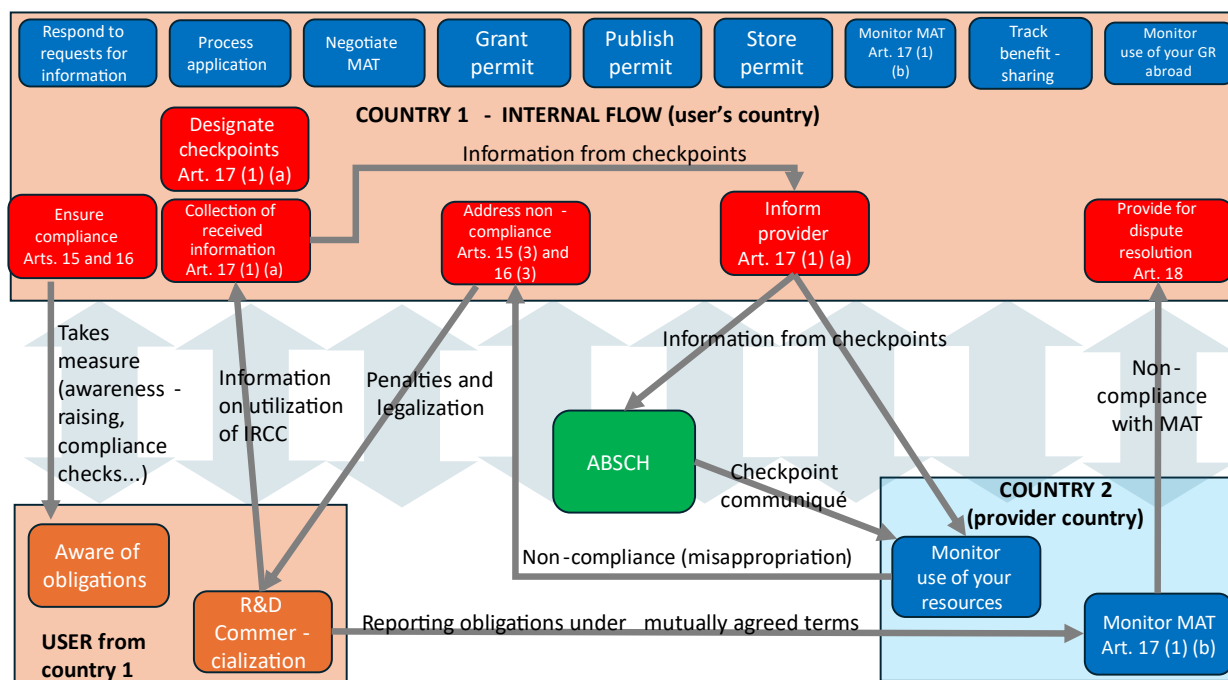


Diagram II
Access and benefit-sharing flow: compliance and monitoring utilization



Abbreviations: ABS, access and benefit-sharing; ABSCH, Access and Benefit-sharing Clearing-House; IRCC, internationally recognized certificate of compliance; MAT, mutually agreed terms; R&D, research and development.

Annex II

Key conclusions from the dialogue

1. Putting access and benefit-sharing systems in place and general challenges

1. Although much progress has been made in the implementation of the Nagoya Protocol, many countries still face a number of challenges, such as: political instability and lack of strong legal systems; lack of institutional capacity and resources; lack of awareness among stakeholders; complex internal processes and internal coordination challenges associated with the agencies and ministries involved; lack of a clear understanding of Protocol obligations, particularly the elements related to compliance and monitoring utilization; and issues related to lack of political will or the low prioritization of the national implementation of the Nagoya Protocol in the political agenda.
2. For many Parties, operationalizing the Nagoya Protocol can be overwhelming. The Protocol must be translated, first, into a national legal framework and, then, into practical actions, procedures and information systems. Without losing sight of the primary objective of the Protocol as it is implemented at the national level, there needs to be a clear understanding of the entire system and how ABS flow elements interact and work together, which can help provide the necessary perspective and context and the answers to questions related to what needs to be done and why.
3. The success of the Nagoya Protocol relies on the ability of all Parties to implement and operationalize its provisions effectively. It can be helpful to understand the status and respective approaches being taken by other Parties to implement the Protocol.
4. It is important for a certain level of flexibility to be built into access and benefit-sharing-related legal, policy and administrative measures to ensure the ability to respond to changes and evolve to meet the practical needs and objectives of both the user and the provider.

2. Available support and cooperation

5. There was general concern among participants regarding the lack of capacity-building providers working on supporting implementation of access and benefit-sharing and the lack of opportunities for global and regional exchanges on access and benefit-sharing-related issues.
6. It was recognized that international cooperation is an integral component of the implementation of the Nagoya Protocol and that in-person opportunities for the sharing of experiences globally among Parties and stakeholders are valuable.
7. In particular, Parties need more support in the following areas:
 - (a) Documenting and making information available on clear and user-friendly access and benefit-sharing-related procedures to enable users to understand their access and benefit-sharing obligations;
 - (b) Issues related to operationalizing internal procedures and internal management of access and benefit-sharing-related information to support the storing and publishing of permits, and monitoring of mutually agreed terms and utilization, as well as the tracking of benefits shared;
 - (c) Capacity to effectively implement compliance and monitoring obligations, including the designation of checkpoints, functions and communication flows of the information collected or gathered;
 - (d) Implementation of the provisions related to associated traditional knowledge and indigenous peoples and local communities.

3. Access and benefit-sharing information management

8. Appropriate tools for managing information should be developed and used in such a way as to take into consideration current and future needs as well as give due consideration to the entire set of

ABS flow actions and the information management involved (entailing how information is created, stored, retrieved, distributed and used). Since processes and information are interconnected, this can help to create efficiencies in internal processes and reduce workloads. Data analytics and reporting on information can help Parties make informed decisions on how to improve.

4. Awareness-raising

9. A fundamental precondition for achievement of access and benefit-sharing is the awareness of domestic and international access and benefit-sharing obligations among users of genetic resources and associated traditional knowledge.

10. All Parties are required under Article 21 of the Nagoya Protocol to raise awareness on access and benefit-sharing. All organizations and actors need to contribute to access and benefit-sharing awareness-raising globally, regionally and locally so as to foster the generation and equitable and fair sharing of benefits.

11. Awareness-raising is an extremely important element of the implementation of access and benefit-sharing measures, particularly awareness-raising aimed at assisting users in understanding and adhering to access and benefit-sharing obligations. In their presentations, Parties provided examples of different approaches, tools and methods used to communicate with users. In some of the most effective examples of awareness-raising, there was a consideration of who the users were (domestic or foreign) and a fostering of collaborative approaches, which entailed listening to users when they expressed their needs and concerns and taking those needs and concerns into consideration as access and benefit-sharing measures were developed and operationalized.

5. Communicating access information and access and benefit-sharing procedures for users

12. Users have been conditioned, as a first step, to consult the Access and Benefit-sharing Clearing-House when seeking information on how to access genetic resources and/or associated traditional knowledge. The Access and Benefit-sharing Clearing-House serves as a central hub for the sharing by all countries of relevant access and benefit-sharing-related information. The greater the number of difficulties and barriers encountered by potential users, especially in their first steps towards gathering information about access, the bigger the risk of misappropriation as a potential consequence. Therefore, ensuring that relevant, user-friendly, complete, accurate and up-to-date information on access and benefit-sharing measures, procedures and contacts related to access are published on the Access and Benefit-sharing Clearing-House is one of the most straightforward and effective actions that countries can take, especially if they are concerned about misappropriation of their resources.

13. Viewing national access and benefit-sharing systems from a user's perspective can help to foster an understanding of what actions should be taken, and why, in order to improve, describe and clearly communicate the important information needed by users before they apply for access. The Easy ABS guides developed by the Nagoya Protocol hub present a country's access information to users in a clear and friendly format.¹

14. A checklist of actions for countries to consider for improving access and benefit-sharing information related to access on the Access and Benefit-sharing Clearing-House is provided directly below:

- (a) Ensure that contact details for the national focal point and one or more competent national authorities on the Access and Benefit-sharing Clearing-House are accurate and up to date;
- (b) Publish, when available, access and benefit-sharing procedures, measures and national websites/databases on the Access and Benefit-sharing Clearing-House;
- (c) Incorporate mechanisms for collecting user feedback on access and benefit-sharing procedures so that they can be improved;

¹See www.nagoyaprotocol-hub.de/new-easy-abs-guides-for-france-and-brazil/.

(d) Provide information on obtaining, in addition to an access and benefit-sharing permit, the different related permits that a user may need;

(e) Consider the following actions when developing access and benefit-sharing procedures:

(i) Clarify the external process (what the user needs to know), including expectations and timelines involved in each step of the process;

(ii) Provide straightforward step-by-step instructions and the documentation needed;

(iii) Consider the target audience (for example, foreign versus domestic users or users from different sectors) in the presentation of the information, including, for example, language, design and other considerations;

(iv) Provide clarity on the scope of the access and benefit-sharing measures and procedure being described, including the possibility of developing an FAQ component and other practical and easy-to-understand materials related to the scope of access and benefit-sharing obligations;

(v) Include, when available, a link or reference to model contractual clauses.

15. The following, is a checklist of issues regarding access to associated traditional knowledge and procedures for countries to consider, when applicable, in improving information on access:

(a) Clarify who is to be contacted for prior informed consent and mutually agreed terms regarding associated traditional knowledge or genetic resources, as appropriate, including through the development of a database or other information systems with the necessary information;

(b) Support the development of community protocols, minimum requirements for mutually agreed terms and model contractual clauses by indigenous peoples and local communities (Article 12 of the Protocol);

(c) Develop access and benefit-sharing procedures for access to associated traditional knowledge with the full and effective participation of indigenous peoples and local communities;

(d) Publish information related to access on the Access and Benefit-sharing Clearing-House;

(e) Ensure the full and effective participation of indigenous peoples and local communities in the access and benefit-sharing process.

16. The following is a checklist of actions for indigenous peoples and local communities to consider in improving information on access to associated traditional knowledge and procedures:

(a) Develop community protocols or other guidance, based on the community laws, on procedures that can provide clarity to potential users of genetic resources or associated traditional knowledge on how the community wishes to go about addressing access, including the relevant authorities, steps and conditions;

(b) Develop minimum requirements for mutually agreed terms and model contractual clauses, as appropriate, to facilitate the negotiation of mutually agreed terms;

(c) Engage with countries for the development of access and benefit-sharing measures and procedures on associated traditional knowledge;

(d) Publish all relevant information on the Access and Benefit-sharing Clearing-House to facilitate user compliance and awareness.

6. Handling requests and applications

17. Most participants reported that they received between 5 and 20 requests for access per month. Some participants acknowledged that the lack of their sharing of information on the Access and

Benefit-sharing Clearing-House might be a reason for low numbers of requests for access and a contributing factor to possible increased user non-compliance.

18. Several countries have developed online systems for submitting applications for access or are in the process of doing so. Independent of those online applications systems, many users contact the national focal point or the competent national authority for information about access. Another key step towards enabling benefit-sharing is therefore to provide answers to users' requests for information in a proactive, timely and accurate manner.

19. Keeping track of users' requests and applications can be useful for:

- (a) Evaluating the impact of the work on making access information available to users and improving it, as necessary;
- (b) Mobilizing political will, commitment and support as well as resources for access and benefit-sharing;
- (c) Informing decision-making about the access and benefit-sharing systems in place;
- (d) Developing networks and directories of potential users.

20. Depending on the number of requests and applications received, it may be necessary to develop more robust systems for managing information and introducing efficiencies into the process. The following is a checklist of actions to be considered by countries for improving how requests and applications are handled:

- (a) Create a generic email address for receiving access requests/applications, managed by one or more persons, to assist in handling staff turnover, tracking messages and providing timely responses;
- (b) Develop standardized responses and templates and consider using automatic email responses, which could include links to websites, FAQ, access and benefit-sharing procedures or documentation packages;
- (c) Establish a system for applying online/electronically/manually and include all necessary guidance to minimize the need for individual clarification;
- (d) Provide for a system for engaging with users and providing feedback until the application is complete, either through online platforms or other systems;
- (e) Develop systems for managing applications and storing the resulting information in a useful manner depending on the requirements (for example, systems that are searchable and can provide data analytics).

7. Processing applications (prior informed consent/mutually agreed terms)

21. Many countries have an internal process or administrative procedure on how to process access applications extending from the initial application until the permit is granted. Some of the steps are determined by access and benefit-sharing measures and cannot be changed easily, while others have a certain flexibility to enable streamlining of internal processes and minimizing of bottlenecks so that the timelines and workloads are minimized.

22. In this regard, it can be helpful to review the efficiency and effectiveness of internal processes. Once the bottlenecks in the internal process are identified, countries need to find possible solutions that work within the context of their national circumstances and needs. Collecting feedback from users, tracking data analytics and performance metrics are helpful with respect to gaining insights and making decisions to improve systems based on real data founded on experience.

23. In many cases, formalizing and describing the internal processes clearly as a standard operating procedure can help to both bring clarity on the steps to be followed internally and address commonly reported challenges related to institutionalizing information and knowledge, such as staff turnover.

24. The more systematic, clearly understandable, well defined and tested the internal processes and standard operating procedures are, the easier it will be to understand the requirements and develop or choose appropriate information management tools which can improve effectiveness and efficiency. Sometimes, it can be difficult to fully understand the requirements and using a tool is often better than using no tool at all. Any systems or tools used should be periodically re-evaluated and incrementally improved as needed.

25. In some cases, internal coordination and cooperation can be a challenge, particularly in countries with a decentralized access and benefit-sharing organization, for example, one that includes multiple competent national authorities. However, integrated online systems and tools can offer solutions for improving coordination and cooperation between different authorities.

26. In developing and implementing access and benefit-sharing measures, countries need to take into account the special considerations identified in Article 8 of the Protocol, as well as identify procedures for retroactive applications or legalization of access after the genetic resource has been utilized. The latter can be useful in increasing the opportunities for benefits to be shared with the country in cases of misappropriation or cases outside of the legal scope.

8. Negotiating mutually agreed terms

27. The Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization² include useful guidance on mutually agreed terms, including basic requirements and possible clauses. Other useful resources can be found on the Access and Benefit-sharing Clearing-House, such as the ABS Contract Tool, developed by the German Agency for International Cooperation and the Access and Benefit-sharing Capacity Development Initiative.

28. The following is a checklist of actions for countries to consider in improving negotiation of mutually agreed terms:

(a) Develop model contractual clauses and support their development by indigenous peoples and local communities, taking into account guidance provided by the Bonn Guidelines, as appropriate;

(b) Include non-negotiable and negotiable clauses;

(c) Include benefits to be shared and triggers;

(d) Include conditions of use and issues related to third party transfer;

(e) Address issues related to confidentiality, including identification of fields of the international recognized certificate of compliance that should be confidential and the possibility of providing aggregated information on benefits shared for the purpose of reporting under the Kunming-Montreal Global Biodiversity Framework;

(f) Include reporting requirements for monitoring benefit-sharing, which may be standardized so that tools can be developed or used to supporting monitoring;

(g) Address issues related to dispute resolution;

(h) Develop standardized/indicative approaches to benefit-sharing (e.g. fix percentages or establish a range of expected benefits);

(i) Develop framework contracts or agreements to foster long-term partnerships and reduce transaction costs.

29. Drawing lessons and best practices from relevant expertise is important. For instance, experts on private international law with experience in handling and enforcing international contracts could help drafting model clauses. Other access and benefit-sharing experts or competent national authorities can help address issues that are more specific to access and benefit-sharing. Useful model

² See www.cbd.int/doc/publications/cbd-bonn-gdls-en.pdf.

clauses can be shared on the Access and Benefit-sharing Clearing-House for the benefit of potential users and other Parties.

30. Participants raised questions and concerns related to third-party transfer and participants representing users noted that it is often impossible to work on genetic resources without involving some third-party transfer. However, risks and concerns related to third-party transfer and potential non-compliance can be eased for provider countries when users operate in countries that have implemented effective measures for compliance, monitoring and enhancing transparency on utilization.

9. Granting permits, storing permits and publishing certificates on the Access and Benefit-sharing Clearing-House

31. Publishing permits as certificates on the Access and Benefit-sharing Clearing-House is an important step towards providing users with evidence of legal access which may be needed to prove compliance at checkpoints. Certificates that include useful information can facilitate the work for authorities that perform substantial compliance checks involving users.

32. Many countries have not yet published permits as internationally recognized certificates of compliance on the Access and Benefit-sharing Clearing-House. Some of the reasons mentioned include:

- (a) Issues related to the designation of the publishing authority;
- (b) Lack of capacity and training and staff turnover;
- (c) Reviewing permits for the publication of certificates and ensuring that no confidential information is published can be time consuming;
- (d) Lack of understanding of the information necessary to publish a certificate;
- (e) Computer issues, such as conflicting applications and Internet bandwidth or password reset emails going into spam folders;
- (f) Difficulty in managing accounts and signing onto the Access and Benefit-sharing Clearing-House.

33. The following is a checklist of actions for countries to consider in improving permit management and the publication of certificates:

- (a) Ensure the granting and issuing of permits in a timely fashion so that users are able to use them as evidence of compliance;
- (b) Use electronic systems to store and organize access and benefit-sharing permits and related access and benefit-sharing information, particularly cloud-based systems, given the lengthy timelines of research and development;
- (c) Ensure that the appropriate authority is designated to make information available on the publication of certificates. Parties have flexibility in designating one or more additional publishing authorities with responsibilities limited to publishing access and benefit-sharing permit certificates on the Access and Benefit-sharing Clearing-House;
- (d) Publish certificates for both commercial and non-commercial research, given that non-commercial users may need to be able to provide certificates required in scientific journals or other checkpoints;
- (e) Ensure that the user receives the certificate when the user information is confidential;
- (f) Consider that information from PDFs, images and scanned files can be digitized using widely available tools for extracting text which may be more useful, and easily saved, in a database and searched and published as a certificate on the Access and Benefit-sharing Clearing-House;

(g) Use the fields of the certificate in the format of the permits or map the information or ensure that it can be easily mapped;

(h) Make use of the following interoperability options to facilitate the efficient publication of information, in particular if the number of permits to be published is very large. In particular:

- (i) Use the Excel template, which contains the same information as the online submission form, to import several rows of permits at the same time onto the Access and Benefit-sharing Clearing-House. This does not require technical expertise and can be carried out at regular intervals by sending Excel files by email to the Secretariat of the Convention on Biological Diversity;
- (ii) Use programming to connect national permit management systems with the Access and Benefit-sharing Clearing-House using the application programming interface and automate the publication of information, which requires programming knowledge. A clear understanding of the requirements and exactly what is to be achieved is needed to implement the integration of the systems effectively.

10. Monitoring mutually agreed terms

34. Including provisions in mutually agreed terms that require users to submit reports can help countries monitor the utilization of genetic resources, given that, in particular, many countries have not yet effectively implemented those obligations under the Protocol related to compliance and monitoring the utilization of genetic resources.

35. Many countries monitor mutually agreed terms manually by setting up reminders and deadlines in shared documents or calendars for follow up with a user through email or by phone, while other countries use widely available tools or have developed their own customized tools. Receiving, evaluating and reviewing reports from permit holders can be time consuming and using tools can make this process more efficient and effective.

36. Some functionality to support the monitoring of mutually agreed terms could be developed within the Access and Benefit-sharing Clearing-House. For example, the submission form for certificates could include additional fields and options for setting up automated time-bound email reminders to the authorities and users of their reporting deadlines and obligations as agreed in the mutually agreed terms.

11. Tracking benefits received

37. The headline indicators for Goal C and Target 13 require Parties to measure monetary and non-monetary benefits in order to assess progress on achieving an increase in benefit-sharing.

38. The collection of information on monetary and non-monetary benefits at the national level is not without its challenges, however. Many countries do not have easily accessible or readily available information on monetary and non-monetary benefits received. Collecting this information can be more challenging for countries with decentralized approaches to access and benefit-sharing or when benefits are directly shared with communities.

39. In addition to facilitating reporting on progress under the Kunming-Montreal Global Biodiversity Framework, better information on benefits received can help countries monitor compliance with mutually agreed terms and mobilize political will, support and commitment, and resources, as well as inform decision-making and policies and help assess the effectiveness of access and benefit-sharing measures.

40. In order for countries to be able to report on indicators measured at the national level for bilateral benefit-sharing, it is necessary that they implement tools that facilitate collection, compilation and reporting of information in accordance with national legislation. In document [CBD/COP/16/INF/3](#), which includes methodological guidance for indicators under the monitoring

framework for the Framework, recommendations are set out y that could help Parties collect information on benefits received, in accordance with their national circumstance. Those recommendations include:

- (a) Developing a national repository for storing and managing information relating to the adoption of access and benefit-sharing agreements and monitoring benefit-sharing;
- (b) Establishing a centralized system for the reception of monetary benefits, requiring users to report to a single centralized national authority for benefits, even if those benefits are shared with multiple beneficiaries;
- (c) Including the requirement in mutually agreed terms to cite the internationally recognized certificate of compliance or the access and benefit-sharing permit in scientific publications, so that it may be tracked globally as part of non-monetary benefit indicators;³
- (d) Using standardized language in mutually agreed terms and non-disclosure agreements which explicitly allow the recipient of the confidential information to report on benefits received at the aggregated level.

41. Some participants suggested that sharing additional experience on how tracking benefits can be conducted could be helpful in the future.

12. Ensuring compliance

42. All Parties must take measures to meet compliance obligations under the Protocol. A clear understanding of users and sectors that are utilizing genetic resources within the country's jurisdiction is fundamental to designing effective compliance measures, designating checkpoints and fostering awareness-raising to ensure compliance of users.

43. Awareness-raising measures related to compliance obligations can take many forms. In some of the most effective examples, the focus was on assisting users (both domestic and foreign) in understanding their compliance obligations and the rules and procedures for legally accessing and using genetic resources and making them as clear and as easy to understand as possible, thereby reducing resistance to compliance.

13. Designating checkpoints

44. The role and functions of checkpoints, as stated in Article 17 (1) (a) of the Nagoya Protocol, are still misunderstood by many countries and were reported in the evaluation of the workshop as being one of the most challenging topics of the Protocol with respect to effective operationalization.

45. Some countries have designated checkpoints in entities that control the movement of physical genetic resources, such as customs or export and import offices. These are not effective checkpoints for monitoring the utilization of resources from other Parties, as required under Article 17.

46. The fundamental responsibility of a checkpoint is to gather information from a user on utilization of a genetic resource so that it can be transmitted to the provider country in accordance with Article 17 of the Protocol.

47. The following is a checklist of actions for countries to consider in the designation of checkpoints:

- (a) Map the stages of the value chain for products in the country, from research to commercialization, to identify the different agencies involved and assess their designation of checkpoint responsibilities;
- (b) Reflect on the following: at what stage of the value chain is it more important to collect the information, for example, the stage of final commercialization or the stage at which patents are granted;

³ See the proposal for a global methodology to monitor non-monetary benefits in document [CBD/COP/16/INF/3](#).

(c) Coordinate possible roles and functions with potential checkpoints, which could include, for example, substantial examination, collecting or receiving information and sending information, while bearing in mind the need to comply with the information-sharing obligations under Article 17;

(d) Coordinate the information flow for the publication of the checkpoint communiqué;

(e) Designate the national authorities that will be responsible for receiving the information collected at checkpoints designated in their country and that can serve as a point for communication with the authorities of the provider country.

48. When the checkpoint has been designated outside the value chain or users are not obliged to provide information on utilization as part of their usual workflow, Parties need to ensure that users are aware of those obligations so as to ensure that the measures taken related to checkpoints are effective and that information on misappropriation of genetic resources is captured.

14. Managing information gathered (collected or received) from your checkpoint(s) and informing the provider of the genetic resource about the information related to utilization gathered by the checkpoint (checkpoint communiqué)

49. Once checkpoints gather information, countries will need to store and process that information in an organized and systematic manner. Key details from the information gathered need to be published on the Access and Benefit-sharing Clearing-House as a checkpoint communiqué or sent to the provider country. Authorities in both countries should be able to easily look up and retrieve the information collected from checkpoints along with other relevant information when needed to address cases of alleged non-compliance.

50. The main objective of the information gathered at checkpoints is to provide greater transparency on the utilization of genetic resources to ensure that users comply with the access requirements of the other Party. Information gathered from the checkpoint should be made available to both the relevant user country authorities and the relevant provider country authorities to ensure that authorities in both countries may be assured of greater transparency with respect to the utilization taking place and can determine for themselves whether a user is complying with the access and benefit-sharing legislation of each country.

51. Some participants raised the issue of confidentiality of information collected by the checkpoint. Relevant in that regard is the case where key information collected by the checkpoint, such as information on the user, needs to remain confidential and should not be made available on the Access and Benefit-sharing Clearing-House as a checkpoint communiqué, but nonetheless needs to be transmitted appropriately (for example, by phone or email) to the authorities of the provider country.

15. Monitoring the use of a country's own genetic resources (including by receiving the checkpoint communiqué)

52. Some participants raised questions related to compliance and monitoring of genetic resources and how exactly, pursuant to the Protocol, the burden of that work was distributed to ensure that users complied. Related questions were posed in the country presentations on whether the low number of checkpoint communiqués should be a cause for concern. It was noted that not all checkpoint communiqués indicated non-compliance and that they were primarily a tool for providing greater transparency on utilization occurring within a country.

53. Issues related to monitoring and greater transparency of the utilization occurring in a country can influence a provider country's approach to access, particularly the way in which they respond to requests, facilitate access and grant permits to foreign users. Many countries, particularly provider countries, have made additional efforts to monitor how their resources are being used outside the country and have taken risk-averse approaches to access for the same reasons. Strong and effective measures for compliance, monitoring and enhancing transparency related to utilization of genetic

resources can reassure provider countries and, indirectly, make it easier for their users to legally access foreign genetic resources.

54. The following is a checklist of actions for countries to consider in monitoring the use of their own genetic resources, including receiving the checkpoint communiqué:

(a) Save the checkpoint communiqué in the same file (paper or electronic) along with or linked to other information related to the case, such as the permit, application, prior informed consent, mutually agreed terms, correspondence, reports on mutually agreed terms and any other relevant information;

(b) Compare the information received with the information contained on the permit and mutually agreed terms;

(c) Contact the user of genetic resources, if appropriate;

(d) Contact authorities in the user's country with regard to addressing and resolving any potential issues, considering that Parties have an obligation to cooperate in addressing and resolving issues of potential non-compliance with other Parties' requirements;

(e) Set up email alerts in the Access and Benefit-sharing Clearing-House or check the Access and Benefit-sharing Clearing-House regularly for all of the checkpoint communiqués that have been published for genetic resources from their country.

16. Addressing non-compliance

55. How to address cases of non-compliance may depend on the type of non-compliance and whether there was a conscious intent on the part of the user to not comply. For cases of non-compliance with mutually agreed terms, the dispute resolution clauses in the mutually agreed terms, which could include legal recourse or mediation and arbitration, would apply.

56. In cases where utilization of genetic resources has possibly occurred without following access and benefit-sharing legislation or requirements of the Party providing the resources, Parties have an obligation to communicate and cooperate to address alleged cases of non-compliance. In determining the appropriate effective and proportionate measures to be taken, both Parties may wish to consider the intent of the user and, when appropriate, penalties, sanctions and the possibility of legalizing or regularizing the situation.

57. When a Party has implemented its obligations related to Articles 15 and 16 of the Nagoya Protocol, it gives all provider Parties the reassurance that when any potential cases of non-compliance are identified and shared, Parties have the obligation, to the extent possible, to deal with those cases in an appropriate, effective, proportionate and cooperative manner.

Annex III

Summary of the results of the workshop evaluation

Satisfaction with the workshop

	<i>Homework: country presentations</i>	<i>Presentations by the Secretariat of the Convention on Biological Diversity</i>	<i>Presentations by partners</i>	<i>Group work</i>	<i>Topics covered</i>
Extremely useful	14	20	11	16	19
Very useful	18	15	23	16	12
Useful	8	6	7	7	7
Slightly useful	2	1	1	3	3
Not useful	–	–	–	–	–

Usefulness of the topics covered each day

<i>Topic by day</i>	<i>1. Procedures and requests</i>	<i>2. Mutually agreed terms and permits</i>	<i>3. Compliance</i>	<i>4. Taking action and opportunities</i>
Extremely useful	21	23	20	16
Very useful	14	13	15	16
Useful	4	6	7	7
Slightly useful	2	–	–	1
Not useful	–	–	–	1

	<i>Responses</i>
Checkpoints	10
Compliance	8
Monitoring	6
Negotiation of mutually agreed terms	5
Benefits (and tracking)	4
All	3

Satisfaction on organizational aspects of the workshop

	<i>Logistic organization</i>	<i>Style and timing of presentations</i>	<i>Quality of workshop moderation and work facilitation</i>	<i>Adjustment of the daily schedule</i>
Very satisfied	26	20	24	18
Satisfied	12	14	13	17
Neutral	4	6	3	7
Dissatisfied	–	1	1	–
Very dissatisfied	–	–	–	–

Would you like the Secretariat to organize another global access and benefit-sharing workshop during the intersessional period (2025-2026)?

<i>Yes</i>	<i>No</i>
43	–
