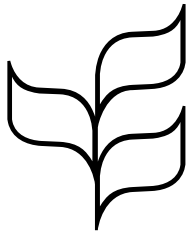




**CBD**



## **Convention on Biological Diversity**

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CONFERENCE OF THE PARTIES TO THE CONVENTION  
ON BIOLOGICAL DIVERSITY SERVING AS THE  
MEETING OF THE PARTIES TO THE NAGOYA  
PROTOCOL ON ACCESS TO GENETIC RESOURCES  
AND THE FAIR AND EQUITABLE SHARING OF  
BENEFITS ARISING FROM THEIR UTILIZATION

Third meeting

Sharm El-Sheikh, Egypt, 17-29 November 2018

### **DRAFT DECISIONS FOR THE THIRD MEETING OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE NAGOYA PROTOCOL**

#### **INTRODUCTION**

1. The present note contains a compilation of draft decisions for the consideration of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol. These draft decisions are organized according to the provisional agenda for the meeting and the revised annotations thereto (CBD/NP/MOP/3/1 and CBD/NP/MOP/3/1/Add.1/Rev.1). This note includes the draft decisions contained in various recommendations from the twenty-second meeting of the Subsidiary Body on Scientific, Technical and Technological Advice, the second meeting of the Subsidiary Body on Implementation, the compliance committee under the Nagoya Protocol and additional elements of draft decisions developed by the Executive Secretary in the light of previous decisions from the meeting of the Parties or recommendations of its subsidiary bodies, which are highlighted in light grey throughout the documents. The background and/or mandates for these additional elements are provided in the documentation prepared for the third meeting of the Parties to the Protocol.

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## ELEMENTS OF DRAFT DECISIONS BY ITEMS OF THE AGENDA

### Items 1, 2 and 3

No draft decisions are foreseen under these items, which are procedural. The action required on the part of the Conference of the Parties serving as the meeting of the Parties to the Protocol under these items is reflected in the revised annotations to the provisional agenda (CBD/NP/MOP/3/1/Add.1/Rev.1).

### Item 4. Reports of subsidiary bodies

In accordance with previous practice, the Conference of the Parties serving as the meeting of the Parties may wish to take note, in the report of the meeting, of the reports presented by subsidiary bodies (item 4 of the agenda) and take substantive matters raised in these reports under the relevant item of the agenda. These include the following reports:

- (a) Twenty-second meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (CBD/SBSTTA/22/12);
- (b) Second meeting of the Subsidiary Body on Implementation (CBD/SBI/2/22).

### Item 5. Report of the Compliance Committee (Article 30)

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*Under this item, the Conference of the Parties serving as the meeting of the Parties to the Protocol will consider the report and recommendations of the Committee (CBD/NP/MOP/3/2), in particular recommendations contained in annex II, section A, which relate to compliance. The recommendations of the Committee which relate to agenda item 10 (the Access and Benefit-sharing Clearing-House and information sharing), agenda item 11 (Monitoring and Reporting) and agenda item 16 (Preparation for the follow-up to the Strategic Plan for Biodiversity 2011-2020) will be addressed under these agenda items.*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,*

1. *Welcomes* the progress made by Parties in the implementation of the Protocol and *urges* Parties that have not yet done so to establish access and benefit-sharing legislative, administrative and policy measures, and institutional arrangements;
2. *Welcomes* the contribution of the Compliance Committee to the first assessment and review of the Protocol in the form of information and findings on general issues of compliance and recommendations to assist in addressing challenges to the implementation of the Protocol;

### Item 6. Administration of the Protocol and budget for the trust funds

#### **Budget for the integrated programme of work of the Secretariat**

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*The following elements of draft decisions have been prepared by the Executive Secretary. The tables on administrative and budgetary matters, to be annexed to the decision will be prepared by the Executive Secretary and provided in document CBD/COP/14/3.*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,*

*Recalling* its decision II/13, and decision XIII/32 of the Conference of the Parties to the Convention on Biological Diversity, as well as decision VIII/7 of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

1. *Decides* to adopt an integrated programme of work and budget for the Convention on Biological Diversity, the Cartagena Protocol on Biosafety and the Nagoya Protocol on Access and Benefit-sharing;

2. *Also decides* to share all costs for Secretariat services among the Convention, the Cartagena Protocol and the Nagoya Protocol on a ratio of [to be completed] for the biennium 2019-2020;

3. *Approves* a core (BB) programme budget for the Nagoya Protocol on Access and Benefit Sharing of [to be completed] United States dollars for the year 2019 and of [to be completed] United States dollars for the year 2020, representing [to be completed] per cent of the integrated budget of [to be completed] United States dollars for the year 2019 and [to be completed] United States dollars for the year 2020 for the Convention and the Protocols, for the purposes listed in the tables 1a and 1b below;

4. *Adopts* the scale of assessments for the apportionment of expenses for 2019 and 2020 as contained in table xx below;

5. *Authorizes* the Executive Secretary on an exceptional basis to amend the 2019 scale of assessment to include all Parties for which the Nagoya Protocol enters into force on or before 31 December 2018;

6. *Acknowledges* the funding estimates for the Special Voluntary Trust Fund for Additional Voluntary Contributions in Support of Approved Activities of the Nagoya Protocol on Access and Benefit Sharing (BX Trust Fund) for the period 2019-2022 included in table xx below;

7. *Notes* that the Special Voluntary Trust Fund for Additional Voluntary Contributions in Support of Approved Activities of the Nagoya Protocol on Access and Benefit Sharing (BX Trust Fund) should be extended for a period of four years beginning 1 January 2020 and ending 31 December 2023 to allow the Executive Secretary to process the administrative closing of the Trust Fund, and *requests* the Executive Director of the United Nations Environment Programme to seek the approval of the United Nations Environment Assembly for this extension;

8. *Decides* to apply, mutatis mutandis, paragraphs [to be completed] and [to be completed] of decision 14/--<sup>1</sup> of the Conference of the Parties.

**Table 1. Integrated biennium budget for the Trust Funds of the Convention on Biological Diversity and its Protocols 2019-2020**

**Table 1a By programme of work**

**Table 1b. By object of expenditure**

**Table 3. Resource requirements from the Special Voluntary Trust Fund (BE) for Additional Voluntary Contributions in Support of Approved Activities under the Convention and its Protocols for the period 2019-2020**

**Table 4. Resource requirements from the Special Voluntary Trust Fund (BZ) for facilitating the participation of Parties in the Convention and its protocols for the period 2019-2020**

**Table 5. Resource requirements from the Special Voluntary Trust Fund (VB) for facilitating the participation of Indigenous Peoples and Local Communities in the Convention and its protocols for the period 2019-2020**

**Table 6. Contributions to the Trust Fund for the Convention on Biological Diversity for the biennium 2019-2020**

<sup>1</sup> The draft COP decision referred to in the present paragraph will be addressed under agenda item 7 of the Conference of the Parties.

## Item 7. Assessment and review of the effectiveness of the Protocol (Article 31)

### First assessment and review of the effectiveness of the Protocol

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*The following draft decision is taken from recommendation 2/2 of the Subsidiary Body on Implementation.*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol*

1. *Takes note* of the key findings of the first assessment and review of the Protocol contained in annex I, which includes the input provided by the Compliance Committee;
2. *Welcomes* the framework of indicators in annex II, and *agrees* to use the reference points contained therein as a baseline against which progress can be measured in the future;
3. *Decides* to revisit and update the framework, as may be deemed appropriate in the light of further progress made with implementation;
4. *Welcomes* the progress made by Parties in making the Protocol operational;
5. *Notes* that further work is needed, as a priority:
  - (a) To develop access and benefit-sharing legislation or regulatory requirements, which provide for legal certainty, clarity and transparency, taking into account special considerations in accordance with Article 8 of the Protocol;
  - (b) To enhance implementation by Parties of the provisions on compliance with domestic legislation and regulatory requirements on access and benefit-sharing (Articles 15 and 16), monitoring the utilization of genetic resources (Article 17), including the designation of checkpoints, as well as the provisions related to indigenous peoples and local communities (Article 5, 6, 7 and 12);
  - (c) To support the full and effective participation of indigenous peoples and local communities in the implementation of the Protocol, including by raising their awareness and capacity about access and benefit-sharing, and supporting the development by indigenous peoples and local communities of community protocols and procedures, minimum requirements for mutually agreed terms and model contractual clauses for benefit-sharing arising from the utilization of traditional knowledge associated with genetic resources, taking into consideration their customary laws;
  - (d) Raise awareness among relevant stakeholders and encourage their participation in the implementation of the Protocol;
6. *Urges* Parties that have not yet done so:
  - (a) To establish institutional structures and legislative, administrative or policy measures on access and benefit-sharing, taking into account paragraphs 5 (a) and (b) above;
  - (b) To take steps to address the priority areas identified in paragraphs 5 (c) and (d) above;
  - (c) To publish in the Access and Benefit-Sharing Clearing-House all mandatory information available at the national level in accordance with the obligations enshrined in Article 14, paragraph 2, of the Protocol, including information on the permits or their equivalents to constitute internationally recognized certificates of compliance, as soon as possible, with a view to facilitating monitoring the utilization of genetic resources and cooperation among Parties;
7. *Encourages* Parties, non-Parties and relevant organizations in a position to do so:
  - (a) To expand their efforts to build the capacity of developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition to implement the Nagoya Protocol, taking into account the priority areas identified in paragraph 5 above and the key findings in annex I, as well as the needs and priorities of indigenous peoples and local communities and relevant stakeholders;

(b) To support capacity-building initiatives to implement the Protocol, such as the capacity-building programme of the Secretariat and the International Development Law Organization for the establishment of national legal frameworks, including by providing financial resources;

(c) To make available information on capacity-building initiatives and capacity-building resources on the Access and Benefit-Sharing Clearing-House;

(d) To consider regional approaches to support harmonized implementation of the Protocol through, among other things, capacity-building activities among countries that share the same genetic resources or traditional knowledge associated with genetic resources;

(e) To facilitate the sharing of information and experiences in relation to transboundary cooperation in accordance with Article 11 of the Protocol;

(f) To support strategic communication to enhance awareness about the Protocol;

(g) To build the capacity of Parties and indigenous peoples and local communities for the negotiation of mutually agreed terms and to promote partnerships and technology transfer between users and providers of genetic resources and/or associated traditional knowledge;

8. *Invites* Parties, non-Parties, international organizations, regional development banks, other financial institutions and the private sector, as appropriate, to expand their efforts to provide financial resources to support the implementation of the Protocol;

9. *Recommends* that the Conference of the Parties, in adopting its guidance to the financial mechanism with respect to support for the implementation of the Nagoya Protocol, invite the Global Environment Facility to continue to assist eligible Parties to implement the Nagoya Protocol, including the establishment of legislative, administrative and policy measures on access and benefit-sharing and related institutional arrangements, and to make funds available to this end;

10. *Encourages* Parties, non-Parties, indigenous peoples and local communities and relevant organizations to make use of the wealth of information and experiences available in the interim national reports and the Access and Benefit-sharing Clearing-House, as well as existing tools and resources (such as guidelines and capacity-building materials) to support implementation and to promote the exchange of experiences;

11. *Invites* Parties, in view of the cross-cutting nature of the Protocol, to establish appropriate mechanisms to facilitate:

(a) National coordination among different institutions and ministries of relevance to access and benefit-sharing;

(b) The full and effective participation of indigenous peoples and local communities in the implementation of the provisions of the Protocol related to indigenous peoples and local communities with a view to taking into account their needs as well as national circumstances;

(c) The participation of relevant stakeholders from different sectors with a view to taking into account their needs when developing legislative, administrative and policy measures on access and benefit-sharing;

12. *Also invites* Parties:

(a) To consider implementing interim measures in order to gain experience that can inform the development of legislative, administrative or policy measures on access and benefit-sharing;

(b) To take into account, in the implementation of Article 8 of the Protocol, relevant work undertaken by the Food and Agriculture Organization of the United Nations, the World Health Organization and other relevant organizations, as appropriate and in accordance with national circumstances;

(c) To take note, in the implementation of Article 16 of the Protocol, of relevant work undertaken by the World Intellectual Property Organization, as appropriate, provided that it is supportive and does not run counter to the objectives of the Convention and the Protocol;

13. *Invites* indigenous peoples and local communities to engage in access and benefit-sharing processes in accordance with their customary practices, including by developing community protocols and procedures for access and benefit-sharing, and to make them available through the Access and Benefit-sharing Clearing-House;

14. *Invites* relevant stakeholders and user organizations and networks to engage in access and benefit-sharing processes, including by developing tools, such as model contractual clauses, codes of conduct, guidelines, best practices and/or standards, that address the needs of their constituency and facilitate compliance with access and benefit-sharing requirements, and to make these tools available through the Access and Benefit-sharing Clearing-House;

15. *Notes* that the work on one or more international legal instruments relating to intellectual property with a view to ensuring the balanced and effective protection of genetic resources, traditional knowledge and traditional cultural expressions under the World Intellectual Property Organization is ongoing, and that, therefore, it would be premature to assess how the outcomes of this process could contribute to the implementation of the Protocol;

16. *Also notes* that there is insufficient information to measure the effectiveness of Article 18 in accordance with Article 18, paragraph 4, of the Protocol;

17. *Decides* to assess all elements relevant to the implementation of the Protocol, including that identified in paragraph 16, as well as progress on Article 10 on a global multilateral benefit-sharing mechanism, and Article 23 on technology transfer, collaboration and cooperation, at the second assessment and review of the Protocol;

18. *Requests* the Executive Secretary:

(a) To carry out a targeted survey of access and benefit-sharing national focal points and users and providers of genetic resources and/or associated traditional knowledge on challenges related to the implementation of the Protocol to provide an additional source of information in future processes for the assessment and review of the effectiveness of the Protocol;

(b) To take into account the indicators contained in annex II when preparing the proposed format for the next national report on the implementation of the Nagoya Protocol;

19. *Welcomes* progress made by the Secretariat in the implementation and operation of the Access and Benefit-sharing Clearing-House, and *emphasizes* the importance of making information available on the procedures to follow in order to access genetic resources and associated traditional knowledge in a country;

20. *Requests* the Executive Secretary:

(a) To prioritize the translation of the Access and Benefit-sharing Clearing-House into the six official languages of the United Nations;

(b) To continue to improve the performance of the Access and Benefit-sharing Clearing-House;

(c) To seek feedback from all types of users of the Access and Benefit-sharing Clearing-House on its implementation and operation;

21. *Also requests* the Executive Secretary to continue providing technical assistance for the submission of information on the Access and Benefit-sharing Clearing-House, including:

(a) Encouraging the publication by Parties, as well as non-Parties, of all mandatory and other relevant information available at the national level in the Access and Benefit-Sharing Clearing-House and to provide training in the use of the Access and Benefit-Sharing Clearing-House;

(b) Encouraging the publication of reference records, as appropriate, by relevant stakeholders, indigenous peoples and local communities, and relevant organizations on the Access and Benefit-Sharing Clearing-House;

(c) Increasing understanding of the functioning of the system for monitoring the utilization of genetic resources through the Access and Benefit-Sharing Clearing-House;

(d) Encouraging the use of the interoperability features of the Access and Benefit-sharing Clearing-House, such as the application programming interface.

*Annex I*

**KEY FINDINGS**

**Element (a): Extent of implementation of the provisions of the Nagoya Protocol and related obligations of Parties, including assessment of progress by Parties in establishing institutional structures and access and benefit-sharing measures to implement the Protocol**

1. In order to make the Nagoya Protocol operational, Parties need to establish access and benefit-sharing legislative, administrative and policy measures and institutional arrangements and many Parties are still in the process of establishing these measures and institutions. For many Parties, this process is time-consuming and challenging.
2. Progress in establishing institutional arrangements, such as competent national authorities and checkpoints, is closely related to progress in adopting ABS measures. Some measures adopted prior to the Nagoya Protocol included the designation of competent national authorities. However, the designation of checkpoints is a new requirement created by the Protocol and still needs to be addressed by many Parties.
3. Although the publication of mandatory information in the ABS Clearing-House is essential for the implementation of the Protocol, a number of Parties have not yet published on the ABS Clearing-House all available national information in accordance with Article 14 of the Nagoya Protocol.
4. Considering its cross-cutting nature, the implementation of the Protocol requires the participation of indigenous peoples and local communities and relevant stakeholders (e.g. different business sectors and the scientific community) as well as coordination among different institutions and ministries (e.g. science and education, agriculture, trade, intellectual property). To assist in addressing this challenge, appropriate mechanisms could be established to facilitate coordination and participation, and awareness-raising and capacity-building may be required.
5. Other key challenges include developing ABS measures that support benefit-sharing while creating legal certainty, avoiding unnecessary complexity, delays and increased burdens and costs on users and limited human resources working on ABS and the Nagoya Protocol in many Parties.
6. In the light of these challenges, the development of interim measures could be considered as a first step. The needs of users of genetic resources and associated traditional knowledge from different sectors should also be taken into account in developing ABS measures. Regional approaches may also be useful to support harmonized implementation of the Protocol.<sup>2</sup>
7. Implementing some of the new elements of the Protocol, namely the provisions on compliance, monitoring the utilization of genetic resources, including the designation of checkpoints, and the obligations related to indigenous peoples and local communities, presents a particular challenge.
8. The Nagoya Protocol does not distinguish between countries that are users and countries that are providers of genetic resources and obligations in the Protocol apply to all Parties, including provisions related to compliance with domestic legislation or regulatory requirements according to Articles 15 and 16.
9. With respect to checkpoints, there is a need for Parties to better understand their functions and options for their designation in light of their national context. There is also a need to build the capacity of checkpoints to enable them to carry out their functions.
10. With respect to indigenous peoples and local communities, challenges include: determining how the concept of “indigenous peoples and local communities” applies at the national level; clarifying the rights of indigenous peoples and local communities over genetic resources and/or traditional knowledge associated with genetic resources; identifying the different groups of indigenous peoples and local communities; understanding the way they are organized; and linking traditional knowledge with the holder/s of such knowledge. In order to address these challenges, the following could be considered:

(a) Building the capacity of Parties to support the implementation of the provisions of the Protocol related to indigenous peoples and local communities as well as the capacity of indigenous peoples and local communities with respect to ABS issues;

<sup>2</sup> For example, “African Union Practical Guidelines for the Coordinated Implementation of the Nagoya Protocol in Africa” (African Union, 2015).



(b) Relevant work of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions on the concept of indigenous peoples and local communities;<sup>3</sup>

(c) National mechanisms for the participation of indigenous peoples and local communities in the implementation of the provisions of the Protocol related to indigenous peoples and local communities, taking into account national circumstances;

(d) Support for coordination and institution building within and among indigenous peoples and local communities to address ABS issues including through the development of community protocols;

(e) Capacity-building to support indigenous peoples and local communities in developing minimum requirements for mutually agreed terms and model contractual clauses for benefit-sharing arising from the utilization of traditional knowledge associated with genetic resources.

11. Parties have different approaches to prior informed consent, mutually agreed terms and the issuance of permits. It is important for Parties to make clear information available on the ABS Clearing-House on the procedures to follow to access genetic resources and associated traditional knowledge.

12. In addition, in the development and implementation of ABS legislation or regulatory requirements it is important that Parties take into account special considerations in accordance with Article 8 of the Protocol. Relevant work undertaken under the Food and Agriculture Organization of the United Nations,<sup>4</sup> the World Health Organization and other organizations may be useful in this regard.

13. The importance of sharing information and experience in relation to transboundary cooperation (Article 11) was highlighted. In particular, experiences acquired in subregional and bilateral projects could be relevant to assist in the implementation of this article. Regional structures or projects were identified by some as a way to address this issue, while noting that reinforcement of the capacity of regional structures to play that role would be needed.

14. Capacity-building could also support harmonized implementation of the Protocol among countries that share the same genetic resources or traditional knowledge associated with genetic resources.

#### **Element (b) Establishment of a reference point to measure effectiveness**

15. Some Parties reported on having received benefits received from the utilization of genetic resources and associated traditional knowledge.

16. With regard to how the implementation of the Nagoya Protocol contributed to conservation and sustainable use of biodiversity in their country, many considered that it was premature to answer this question as implementation of the Nagoya Protocol was at an early stage.

17. The most common contribution reported is an increase of awareness of the value of conservation and sustainable use of biodiversity and ecosystem services. Examples of other contributions highlighted by countries are the following:

(a) Managers of natural resources or authorities are more aware of the potential advantages of the Nagoya Protocol and are developing conservation practices;

(b) Implementing the Nagoya Protocol helped improving the knowledge about species, including through the development of databases or inventories and their population, and supports the valorisation of genetic resources and special conservation approaches;

(c) Increased involvement of communities in conservation and sustainable use;

(d) Increased compliance by users of genetic resources;

(e) Recognition of research and development as a key to the country's valorization of genetic resources;

(f) Implementing the Protocol played a key role in factoring elements of biodiversity conservation and use in government development agenda including in 2030 vision.

#### **Element (c): Establishment of a reference point on support available for implementation**

18. Although a number of capacity-building and development initiatives are currently supporting ratification and implementation of the Nagoya Protocol, many Parties still lack the necessary capacity and financial resources to make the Protocol operational. Capacity-building and development support therefore continue to be essential in order to make

<sup>3</sup> For example "Compilation of views received on use of the term 'indigenous peoples and local communities'" ([UNEP/CBD/WG8J/8/INF/10/Add.1](#)).

<sup>4</sup> For example "ABS Elements: Elements to Facilitate Domestic Implementation of Access and Benefit-sharing for Different Subsectors of Genetic Resources for Food and Agriculture" (Food and Agriculture Organization of the United Nations, 2016).

progress in the implementation of the Protocol, in particular for developing country Parties and Parties with economies in transition.

19. The wealth of information and experiences available in the national reports and in the ABS Clearing-House, as well as the exchange of experiences, may be useful to Parties in the establishment of institutional structures and the development of ABS measures. This information could also be taken into account in capacity-building projects. In addition, the use of existing tools and resources (e.g. guidelines, capacity-building materials) to support implementation could be encouraged.

**Element (d): Assessment of effectiveness of Article 18 (extent of implementation)**

20. The provisions of Article 18 on compliance with mutually agreed terms are often implemented at the national level through existing laws (e.g. contractual law, private international law, domestic measures related to access to justice) rather than through specific ABS measures.

21. When one party of a contract resides in a foreign country, the contractual relationship falls in the domain of private international law. Private international law seeks to regulate, first, which jurisdiction applies to a dispute; second, which law applies to the dispute; and third, whether and how eventual decisions or judgments are recognized and may be enforced in another jurisdiction. Each State has its own national rules on these matters, but some of these may have been harmonized through international agreements, guidelines, and model laws.

22. Those developing ABS measures and/or implementing the Protocol may not be aware of all applicable legislation dealing with contractual law, private international law, domestic measures related to access to justice. A mechanism to support national coordination could assist in drawing from the expertise of other institutions dealing with these issues.

23. Information contained in the interim national report, as well as the exchange of experiences may be useful for Parties to understand how the implementation of Article 18 can be supported.

**Element (e): Assessment of implementation of Article 16 in light of developments in other relevant international organizations, including, inter alia, the World Intellectual Property Organization**

24. Many Parties are still in the process of establishing ABS measures and institutions arrangements to implement the Protocol. Implementation of the provisions on compliance and the obligations related to indigenous peoples and local communities are particularly challenging for Parties.

25. The work on one or more international legal instrument(s) relating to intellectual property with a view to ensuring the balanced and effective protection of genetic resources, traditional knowledge and traditional cultural expressions under WIPO is still on going, and it is premature to assess how the outcomes of this process could contribute to implementation of the Nagoya Protocol.

26. However, there are a number of existing tools and resources that could be used by Parties in advancing the implementation of Article 16 of the Nagoya Protocol, including those developed by WIPO and the CBD Mo'otz Kuxtal voluntary guidelines.<sup>5</sup>

**Element (f): Stock-taking of the use of model contractual clauses, codes of conduct, guidelines, best practices and standards as well as indigenous peoples and local communities' customary laws, community protocols and procedures**

27. A wide range of model contractual clauses, codes of conduct, guidelines, best practices and standards have been developed both by Governments and organizations. However, there is less information on how these tools are being used. It is unclear how the use of the tools could be measured.

28. User organizations and networks play an important role in addressing the needs of their members by developing tools that can bring clarity on how ABS can be incorporated in their practice and assisting their member organizations to comply with ABS requirements.

29. Implementing the provisions related to indigenous peoples and local communities is one of the main challenges identified by Parties. Community protocols on ABS can help to address some of the challenges identified in paragraph 10 above. They can help the indigenous peoples and local communities that develop them to articulate their values, practices and aspirations. They can also help Governments to implement the provisions of the Protocol related to indigenous peoples and local communities, and they provide clarity and certainty to users on how to have access to genetic resources and/or associated traditional knowledge held by indigenous peoples and local communities.

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<sup>5</sup> Mo'otz Kuxtal voluntary guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure the "prior and informed consent", "free, prior and informed consent" or "approval and involvement", depending on national circumstances, of indigenous peoples and local communities for accessing their knowledge, innovations and practices, for fair and equitable sharing of benefits arising from the use of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, and for reporting and preventing unlawful appropriation of traditional knowledge.

30. Community protocols are being developed and used in a variety of contexts, including but not limited to ABS. Some deal with biotrade or land issues and include some ABS elements as part of a bigger context. Incorporating ABS elements in existing community protocols dealing with resource or land management or biotrade may facilitate the process. Supporting indigenous peoples and local communities in developing community protocols is essential, as well as doing so in way that ensures that the outcomes represent community values, practices and aspirations.

**Element (g): Review of implementation and operation of the Access and Benefit-sharing Clearing-House, including number of access and benefit-sharing measures made available; number of countries that have published information on their competent national authorities; number of internationally recognized certificates of compliance that have been constituted and number of checkpoint communiqués published**

31. Approximately half of the users of the ABS Clearing-House are users of genetic resources or associated traditional knowledge and consult the ABS Clearing-House to find national information. Feedback received highlights the important need to provide improved and clear information on national ABS requirements and procedures. This information should provide users with simple and easy to understand guidance on the necessary steps to apply for access to genetic resources and associated traditional knowledge.

32. Relevant stakeholders in particular the business and scientific communities, could benefit from more outreach and awareness-raising both as users of genetic resources and as potential contributors of relevant information (e.g. model clauses, codes of conduct, awareness-raising materials). The implementation of the ABS Clearing-House could also benefit from a greater understanding of their needs in terms of functionality and design of the ABS Clearing-House.

33. Technical assistance for use of the ABS Clearing-House still required. The live chat is a very valued feature by users of the ABS Clearing-House. Capacity-building on the use of the ABS Clearing-House and implementation of the Protocol is closely related. Many questions received through the live chat and during the capacity-building activities for the ABS Clearing-House are about implementation of the Protocol rather than the technical support to use the clearing-house.

## *Annex II*

### **DRAFT FRAMEWORK OF INDICATORS AND REFERENCE POINTS TO MEASURE PROGRESS**

1. The following table proposes indicators for each of the elements addressed by the first assessment and review. Reference points are included for most of the indicators proposed. These reference points determine a baseline against which progress can be measured in the future for each of the indicators. The indicators proposed are mostly based on existing questions of the interim national report. However, there are instances where no conclusive information could be drawn from the responses to the interim national report, and therefore, a new text is suggested for those indicators. The new or revised indicators are identified in the table.

2. It also includes the source of information used to establish the reference point. For ease of reference, it follows the structure and order of the format of the interim national report and includes reference to the element/s under which the indicator is being considered.

3. The framework is flexible tool that can be adapted as further progress is made with implementation.

Draft framework of indicators	Element	Reference point (as of 22 February 2018)	Source
1. Number of Parties to the CBD that have ratified the Nagoya Protocol		105 (54%)	United Nations Treaty Collection
<b>Institutional structures for the implementation of the Protocol</b>			
2. Number and percentage of Parties with legislative, administrative and policy measures on ABS	(a)	75 (71%)	Q.4 ABS-CH CBD report NBSAP
3. Number of Parties that have published information on legislative, administrative or policy measures on ABS in the ABS Clearing-House	(g)	45 (43%);	ABS-CH

Draft framework of indicators	Element	Reference point (as of 22 February 2018)	Source
4. Number and percentage of Parties with national focal points on ABS	(a)	103 (98%)	Q.5 ABS-CH
5. Number and percentage of Parties with one or more competent national authorities	(a)	57 (54%)	Q.6 ABS-CH CBD report NBSAP
6. Number and percentage of Parties that have published information on competent national authorities in the ABS Clearing-House	(g)	45 (43%)	ABS-CH
7. <i>New:</i> Number and percentage of Parties that have issued permits or their equivalents	(a)	19 (18%)	NR format requires revision
8. Number and percentage of Parties that have published internationally recognised certificates of compliance (IRCC) in the ABS Clearing-House	(b) (g)	12 (11%)	Q.7, 8,16 ABS-CH
9. Number of IRCC available in the ABS Clearing-House	(g)	146	ABS-CH
10. Number and percentage of Parties with one or more checkpoints	(a)	29 (27%)	Q.9 ABS-CH CBD report NBSAP
11. Number and percentage of Parties that have published information on checkpoints	(g)	20 (19%)	ABS-CH
12. Number and percentage of Parties that have made information available to the ABS Clearing-House (CNA, checkpoint, ABS measures, IRCC)	(a)(g)	54 (51%)	Q.3 ABS-CH
13. Number and percentage of Parties that have information (CNA, checkpoint, ABS measures, permits) that have not yet been made available to the ABS Clearing-House	(a)(g)	46 (44%)	Q.4, 6, 9 ABS-CH CBD report NBSAP
<b>Legislative, administrative or policy measures on ABS: Access to genetic resources (Article 6)</b>			
14. Number and percentage of Parties requiring prior informed consent for access to genetic resources that provide information on how to apply for prior informed consent as provided in Article 6.3 (c)	(a) (b)	27 (73%)	Q.13
15. Number and percentage of Parties requiring prior informed consent providing for the issuance at the time of access of a permit or its equivalent as provided in Article 6.3 (e)	(a) (b)	32 (86%)	Q.15
16. Number and percentage of Parties requiring prior informed consent for access to genetic resources that have rules and procedures for requiring and establishing mutually agreed terms as provided in Article 6.3 (g)	(a)	28 (76%)	Q.17
17. <i>Revised:</i> Number and percentage of Parties requiring prior informed consent for access to genetic resources for their utilization which received monetary benefits from granting access to genetic resources since entry into force of the Protocol	(b)	Not conclusive data	Q.18 requires revision
18. <i>New:</i> Amount of monetary benefits (in USD) received from granting access to genetic resources for their utilization since entry into force of the Protocol	(b)	Not conclusive data	Q.18 requires revision

Draft framework of indicators	Element	Reference point (as of 22 February 2018)	Source
19. <i>Revised:</i> Number and percentage of Parties requiring prior informed consent for access to genetic resources that received non-monetary benefits from granting access to genetic resources since entry into force of the Protocol	(b)	Not conclusive data	Q.18 requires revision
20. <i>Revised:</i> Number and percentage of Parties with indigenous peoples and local communities in their country that received monetary benefits from granting access to traditional knowledge associated with genetic resources since entry into force of the Protocol	(b)	Not conclusive data	Q.18 requires revision
21. <i>New:</i> Amount of monetary benefits (in USD) received from granting access to traditional knowledge associated with genetic resources for its utilization since entry into force of the Protocol	(b)	Not conclusive data	Q.18 requires revision
22. <i>Revised:</i> Number and percentage of Parties with indigenous peoples and local communities in their country that received non-monetary benefits from granting access to traditional knowledge associated with genetic resources	(b)	Not conclusive data	Q.18 requires revision
<b>Legislative, administrative or policy measures on ABS: Fair and equitable-sharing (Article 5)</b>			
23. Number and percentage of Parties with legislative, administrative or policy measures to implement Article 5.1 (genetic resources)	(a)	46 (44%)	Q.20
24. Number and percentage of Parties with legislative, administrative or policy measures to implement Article 5.2 (genetic resources held by indigenous peoples and local communities)	(a)	42 (40%)	Q.21
25. Number and percentage of Parties with legislative, administrative or policy measures to implement Article 5.5 (traditional knowledge associated with genetic resources)	(a)	41(39%)	Q.22
<b>Legislative, administrative or policy measures on ABS: Compliance with domestic legislation or regulatory requirements on ABS (Article 15 and 16) and monitoring the utilization of genetic resources (Article 17)</b>			
26. Number and percentage of Parties that have taken appropriate, effective and proportionate legislative, administrative or policy measures to implement Article 15.1 (genetic resources)	(b)	36 (34%)	Q.24
27. Number and percentage of Parties that have taken appropriate, effective and proportionate legislative, administrative or policy measures to implement Article 16.1 (traditional knowledge associated with genetic resources)	(e)	33 (31%)	Q.25
28. Number and percentage of Parties that require users of genetic resources to provide the information identified in Article 17.1 (a)(i), as appropriate, at a designated checkpoint	(a)	41 (39%)	Q.26
29. Number and percentage of Parties that provide the information collected or received at a designated checkpoint to relevant national authorities, to the Party providing prior informed consent and to the ABS Clearing-House	(a)	9 (9%)	Q.27
30. Number of checkpoint communiques published in the ABS Clearing-House	(g)	0	ABS-CH

Draft framework of indicators	Element	Reference point (as of 22 February 2018)	Source
<b>Legislative, administrative or policy measures on ABS: compliance with mutually agreed terms (Article 18)</b>			
31. Number and percentage of Parties that encourage the inclusion of dispute resolution provisions in mutually agreed terms as provided in Article 18.1.	(d)	36 (34%)	Q.31
32. Number and percentage of Parties with opportunity to seek recourse available under their legal systems in cases of disputes arising from mutually agreed terms as provided in Article 18.2	(d)	51 (49%)	Q.32
33. Number and percentage of Parties with measures regarding access to justice	(d)	47 (45%)	Q.33
34. Number and percentage of Parties with measures regarding utilization of mechanisms regarding mutual recognition and enforcement of foreign judgements and arbitral awards	(d)	38 (36%)	Q.33
<b>Special considerations (Article 8)</b>			
35. Number and percentage of Parties that created conditions to promote and encourage research which contributes to the conservation and sustainable use of biodiversity as provided in Article 8(a)	(b)	48 (46%)	Q.35
36. Number and percentage of Parties that paid due regard to cases of present or imminent emergencies that threaten or damage human, animal or plant health as provided in Article 8(b)	(b)	39 (37%)	Q.35
37. Number and percentage of Parties that have taken into consideration the need for expeditious access to genetic resources and expeditious fair and equitable sharing of benefits arising out of the use of such genetic resources as provided in Article 8(b)	(b)	26 (25%)	Q.35
38. Number and percentage of Parties that have taken into consideration the importance of genetic resources for food and agriculture and their special role for food security as provided in Article 8 (c)	(b)	48 (46%)	Q.35
<b>Provisions related to indigenous peoples and local communities (Article 6,7 and 12)</b>			
39. Number and percentage of Parties where indigenous peoples and local communities have the established rights to grant access to genetic resources with measures in place with the aim of ensuring the prior informed consent or approval and involvement of indigenous peoples and local communities as provided in Article 6.2	(a)	23 (47%)	Q.38
40. Number and percentage of Parties with indigenous peoples and local communities in their country that have taken measures with the aim of ensuring that traditional knowledge associated with genetic resources that is held by indigenous peoples and local communities have been accessed with the prior informed consent or approval and involvement of these indigenous peoples and local communities and that mutually agreed terms have been established as provided in Article 7	(a)	21(43%)	Q.39

Draft framework of indicators	Element	Reference point (as of 22 February 2018)	Source
41. <i>New</i> : Number of indigenous peoples and local communities' community protocols and procedures developed	(f)	Not conclusive data	Q.42 requires revision Targeted survey
42. Number of indigenous peoples and local communities' customary laws, community protocols and procedures made available in the ABS Clearing-House	(f)(g)	3	ABS-CH
<b>Contribution to conservation and sustainable use (Article 9)</b>			
43. <i>Revised</i> : Number and percentage of Parties that reported that implementation of the Nagoya Protocol has contributed to conservation and sustainable use of biodiversity in their country	(b)	Not conclusive data	Q.46 requires revision
<b>Model contractual clauses, codes of conduct, guidelines, best practices and standards (Articles 19 and 20)</b>			
44. Number of model contractual clauses developed	(f)	29	Q.51, targeted survey
45. Number of codes of conduct, guidelines, best practices and standards developed	(f)	33	Q.52, targeted survey
46. Number and percentage of model contractual clauses made available in the ABS Clearing-House	(f) (g)	17 (59%)	ABS-CH
47. Number and percentage of codes of conduct, guidelines, best practices and standards made available in the ABS Clearing-House	(f) (g)	25 (75%)	ABS-CH
<b>Awareness-raising and capacity (Article 21 and 22)</b>			
48. Number and percentage of Parties that received external support for building and developing capacity for the implementation of the Nagoya Protocol since entry into force of the Protocol	(c)	45 (43%)	Q.56
49. Number and percentage of Parties that provided external support for building and developing capacity for the implementation of the Nagoya Protocol since entry into force of the Protocol	(c)	27 (26%)	Q.57
50. Number of capacity-building and development initiatives made available completed or initiated after the adoption of the Nagoya Protocol in 2010 and are providing, or have provided, direct support for country level activities contributing to the ratification and implementation of the Nagoya Protocol	(c)	90	SCBD documents on capacity-building
51. Number of capacity-building and development initiatives made available to the ABS Clearing-House	(c)(g)	57	ABS-CH
52. Number of capacity-building and awareness-raising tools and resources on access and benefit-sharing	(c)	84	SCBD documents on capacity-building
53. Number of capacity-building and awareness-raising tools and resources made available in the ABS Clearing-House	(c)(g)	34	ABS-CH

Draft framework of indicators	Element	Reference point (as of 22 February 2018)	Source
<b>Technology transfer, collaboration and cooperation</b>			
54. Number and percentage of Parties that have collaborated and cooperated in technical and scientific research and development programmes as a means to achieve the objective of the Protocol as provided in Article 23	(a)	46 (44%)	Q.59
<b>Optional additional information</b>			
55. Number and percentage of Parties that established a mechanism for budgetary allocations of funds for the implementation of the Nagoya Protocol	(c)	24 (23%)	Q.61
56. Number and percentage of Parties that made financial resources available to other Parties	(c)	13 (12%)	Q.62
57. Number and percentage of Parties that received financial resources from other Parties or financial institutions for the purposes of implementation of the Protocol as provided in Article 25	(c)	35 (33%)	Q.62
58. Average number of full time staff working to administer functions directly related to the implementation of the Nagoya Protocol in each Party	(c)	Not conclusive data	Q.63- requires revision
<b>Implementation and operation of the ABS Clearing-House</b>			
59. Number of non-Parties that have published national information (ABS measures, CNAs or checkpoints) in the ABS Clearing-House	(g)	8	ABS-CH
60. The number of visitor to the ABS Clearing-House per year	(g)	18,709 visitors (as of 22 March 2018)	Google analytics

## Second assessment and review of the effectiveness of the Protocol

*The following is taken from the draft decision contained in section IV of document CBD/NP/MOP/3/3.*

*The Conference of the Parties serving as the meeting of the Parties to the Protocol,*

*Having considered* the note by the Executive Secretary on assessment and review of the effectiveness of the Protocol (Article 31),<sup>6</sup>

*Mindful* of the linkages between the submission of national reports and the assessment and review process,

1. *Decides* to conduct the second assessment and review of the effectiveness of the Protocol at the sixth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, in 2024;

2. *Requests* the Executive Secretary to propose a methodology for conducting the second assessment and review of the effectiveness of the Protocol, taking into account the outcomes and lessons learned from the first assessment and review process, experiences from the assessment and review process under the Cartagena Protocol on Biosafety, and the post-2020 global biodiversity framework, for the consideration of the Conference of the Parties serving as the meeting of the Parties to the Protocol at its fifth meeting;

<sup>6</sup> CBD/NP/MOP/3/3.



3. *Decides* to revisit the issue of intervals for subsequent assessment and review of the effectiveness of the Protocol at a subsequent meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

**Item 8. Financial mechanism and resources (Article 25)**

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*The following is taken from the draft decision contained in section V of document CBD/NP/MOP/3/5.*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol*

1. *Welcomes* the seventh replenishment of the Global Environment Facility Trust Fund, and *expresses its appreciation* to the countries that contributed to the seventh replenishment;
2. *Also welcomes* the Biodiversity Focal Area Strategy, which includes a programme for implementing the Nagoya Protocol, and *takes note* of the notional programming targets for the various Biodiversity Focal Area objectives and programmes contained in the report on the seventh replenishment;<sup>7</sup>
3. *Encourages* eligible Parties to prioritize access and benefit-sharing projects during the programming of their seventh-replenishment national allocations under the System for Transparent Allocation of Resources (STAR);
4. *Encourages* Parties to incorporate access and benefit-sharing activities in projects developed under other focal area programmes, and, in particular, under other biodiversity focal areas;
5. *Also encourages* Parties to cooperate at the regional and subregional levels and to request support from the Global Environment Facility for joint projects in order to maximize synergies and opportunities for cost-effective sharing of resources, information, experiences and expertise.

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<sup>7</sup> [GEF/A.6/05/Rev.01](#).

## Item 9. Measures to assist in capacity-building and capacity development (Article 22)

### Strategic Framework for capacity-building and development for the implementation of the Nagoya Protocol

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*The following is taken from the draft decision contained in section VI of document CBD/NP/MOP/3/4.*

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#### *The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol*

1. *Takes note* of the progress made in the implementation of the strategic framework for capacity-building and development for the implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization;<sup>8</sup>
2. *Invites* Parties, other Governments and relevant organizations to expand their efforts to implement the strategic framework and further share information about their capacity-building initiatives, including emerging experiences, best practices and lessons learned, and capacity-building resources through the Access and Benefit-sharing Clearing-House, using the relevant common formats;
3. *Invites* Parties, other Governments and relevant organizations to consider developing regional projects as a way forward to support regional cooperation and address the capacity-building gaps in certain regions;
4. *Takes note* of the report of the meeting of the Informal Advisory Committee on Capacity-building for the Implementation of the Nagoya Protocol held during the intersessional period,<sup>9</sup> and *decides* to extend the mandate of the Informal Advisory Committee until the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, so that it can continue to support the implementation of the strategic framework for capacity building and development in accordance with the terms of reference contained in decision [NP-1/8](#);
5. *Decides* that the Informal Advisory Committee will hold one meeting, and online consultations as needed, and *requests* the Informal Advisory Committee to provide inputs for the evaluation of the strategic framework through a review of preliminary findings and by providing additional information and recommendations;
6. *Also decides* to evaluate the strategic framework for capacity-building and development to support the effective implementation of the Nagoya Protocol<sup>10</sup> on the basis of the elements in the annex to the present decision;
7. *Requests* the Executive Secretary:
  - (a) To continue to carry out and facilitate capacity-building activities to support the ratification and implementation of the Nagoya Protocol as set out in the short-term action plan (2017-2020) annexed to decision [NP-2/8](#) of the Conference of the Parties serving as the meeting of the Parties to the Protocol and decision [XIII/23](#) of the Conference of the Parties to the Convention to enhance and support capacity-building for the implementation of the Strategic Plan for Biodiversity 2011-2020 and its Aichi Biodiversity Targets;
  - (b) To prepare an evaluation of the strategic framework for capacity-building and development in accordance with decision NP-1/8, paragraph 9(f), and submit the evaluation report for the consideration of the Subsidiary Body on Implementation at its third meeting, with a view to ensuring an effective approach to capacity-building under the Nagoya Protocol that is consistent with the post-2020 global biodiversity framework;

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<sup>8</sup> CBD/NP/MOP/3/4.

<sup>9</sup> [CBD/ABS/CB-IAC/2018/1/4](#).

<sup>10</sup> Decision [NP-1/8](#), annex I.

8. *Requests* the Subsidiary Body on Implementation at its third meeting to review the evaluation report submitted by the Executive Secretary and submit its recommendations to the Conference of the Parties serving as the meeting of the Parties to the Protocol at its fourth meeting.

*Annex*

**ELEMENTS FOR THE EVALUATION OF THE STRATEGIC FRAMEWORK FOR CAPACITY-BUILDING AND DEVELOPMENT TO SUPPORT THE EFFECTIVE IMPLEMENTATION OF THE NAGOYA PROTOCOL**

**A. Scope and objectives of the evaluation**

1. It is proposed that the exercise focus on evaluating the relevance and effectiveness of the strategic framework in guiding the capacity-building and development efforts during the short and medium term (2014-2020) and offering recommendations that could be useful for the possible revision of the strategic framework beyond 2020. In other words, the objective of the evaluation will be to assess the framework's contribution in helping foster a strategic, coherent and coordinated approach to capacity-building and development for the effective implementation of the Nagoya Protocol.

2. Specific objectives of the evaluation will be threefold:

(a) To take stock and review progress made in the implementation of the strategic framework, including the main achievements by key area of the strategic framework, limitations and lessons learned since its adoption in 2014;

(b) To review the relevance and effectiveness of the strategic framework in guiding and facilitating capacity-building efforts while fostering coordination and cooperation in the short and medium term;

(c) To propose options and make recommendations for further capacity-building to support the implementation of the Nagoya Protocol that could be taken into consideration for the preparation of the long-term strategic framework for capacity-building and development beyond 2020 pursuant to decision XIII/23 of the Conference of the Parties.

**B. Methodology and sources of information**

3. The Secretariat will be responsible for carrying out the evaluation in 2019 with inputs from Parties, international organizations and other relevant stakeholders. Three main data collection methods will be used: (a) documentation review; (b) an online survey; and (c) interviews with representatives of key organizations working on capacity-building and development.

4. To guide the review, the following set of questions and sub-questions is proposed:

(a) What progress has been made in the implementation of the strategic framework?

(i) What have been the main achievements relating to the implementation of the strategic framework?

(ii) What progress has been made in strengthening capacities in the five key areas<sup>11</sup> identified by the strategic framework?

(iii) Are there any gaps (thematic and/or geographic) in the implementation of the strategic framework?

(iv) Have the measures and capacity-building activities proposed in appendix II of the strategic framework been used in capacity-building initiatives?

(v) What have been the main challenges/obstacles?

(vi) What have been the most successful approaches and lessons arising from the capacity-building initiatives?

(b) To what extent has the strategic framework been effective in fostering a systematic, coherent and coordinated approach to capacity-building and development?

(i) To what extent is the framework being used as a reference to guide the policies and actions of Parties, organizations and donors in relation to capacity-building for access and benefit-sharing (ABS)? If so, how? If it has not been used as a reference, please explain why.

<sup>11</sup> See [decision NP-1/8](#), annex I, para. 19.

- (ii) What have been the most useful mechanisms to facilitate coordination of the implementation of the strategic framework and how?
  - (iii) To what extent are Parties and relevant organizations cooperating on capacity-development?
- (c) In what way has the strategic framework been effective in guiding and facilitating capacity-building activities?
- (i) How has the strategic framework been used to guide capacity-building activities at the national, regional and international levels?
  - (ii) Was the strategic framework used to guide resource mobilization by Parties and has it influenced donor financing?
  - (iii) To what extent was the strategic framework taken into account by eligible countries in the design of their ABS capacity-building projects submitted to the Global Environment Facility?
- (d) Are the elements of the strategic framework (i.e. key areas, objectives, proposed activities) still relevant?
- (i) To what extent are the objectives of the strategic framework still valid?
  - (ii) Are the key areas and indicative activities for capacity-building<sup>12</sup> still consistent with the overall strategic goals, objectives and desired changes in capacity-building and development to support the implementation of the Nagoya Protocol?
- (e) Recommendations for the preparation of the long-term strategic framework for capacity-building and development beyond 2020:
- (i) Which are the priority capacity-building actions related to ABS that should be included in the long-term strategic framework for capacity-building and development beyond 2020?
  - (ii) What key recommendations can you make for enhancing capacity-building and development on ABS beyond 2020?

5. Information for the review will be drawn from various sources including the following:

- (a) The assessment and review of the effectiveness of the Nagoya Protocol and related decisions of the Conference of the Parties serving as the meeting of the Parties to the Protocol;
- (b) Information published in the interim national reports;
- (c) Information published in the ABS Clearing-House;
- (d) Progress reports on capacity-building and development initiatives supporting the implementation of the Nagoya Protocol prepared by the Secretariat;
- (e) Reports of the Informal Advisory Committee;
- (f) Project reports, evaluations and submissions from the Global Environment Facility and its implementing agencies, as well as from other key organizations involved in capacity-building (e.g. ABS Capacity Development Initiative);
- (g) Needs assessments carried out by Parties and international organizations;
- (h) Information gathered in an online survey and targeted interviews with key stakeholders.

### **C. Expected output and outcomes**

6. The strategic framework is a flexible and living document. From its inception, it was intended to be used, adapted and updated on the basis of emerging experiences and lessons learned. As per paragraph 44 of the strategic framework, the main output of the review will be a report to be used by the Conference of the Parties serving as the meeting of the Parties to the Protocol to review, and, as appropriate, revise the strategic framework for capacity-building and development in conjunction with the consideration and adoption of a post-2020 global biodiversity framework.

<sup>12</sup> See decision NP-1/8, appendix II, of the strategic framework.

## Long-term strategic framework for capacity-building beyond 2020

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*The following is taken from recommendation 2/8, section II of the Subsidiary Body on Implementation*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,*

*Recalling decisions [NP-1/8](#) and [NP-2/8](#),*

1. *Takes note* of the progress report on the implementation of the short-term action plan (2017-2020) to enhance and support capacity-building for the implementation of the Convention and its Protocols supported and facilitated by the Executive Secretary in collaboration with various partners;<sup>13</sup>
2. *Welcomes* the terms of reference for the study to provide an information base for the preparation of a long-term strategic framework for capacity-building beyond 2020, as contained in the appendix to annex I to decision 14/--,<sup>14</sup> and *notes* that, in decision 14/--, the Conference of the Parties requested the Executive Secretary to commission a study, subject to the availability of resources, to provide an information base for the preparation of a long-term strategic framework for capacity-building beyond 2020, and *requests* that aspects relevant to the Nagoya Protocol be considered in the study;
3. *Invites* Parties, indigenous peoples and local communities and relevant organizations to provide the Executive Secretary with views and suggestions on the possible elements of the long-term strategic framework for capacity-building beyond 2020;
4. *Also invites* Parties as well as indigenous peoples and local communities and relevant organizations to participate in the consultative workshops and online discussion forums on the draft long-term strategic framework for capacity-building beyond 2020, in conjunction with the preparatory process for the post-2020 global biodiversity framework;
5. *Requests* the Informal Advisory Committee on Capacity-building for the implementation of the Nagoya Protocol to contribute to the development of the draft long-term strategic framework for capacity-building beyond 2020;
6. *Requests* the Executive Secretary, subject to the availability of resources, to submit a draft long-term strategic framework for capacity-building beyond 2020 for consideration by the Subsidiary Body on Implementation at its third meeting and for subsequent consideration by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its fourth meeting;

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<sup>13</sup> Updated version of document CBD/SBI/2/INF/6.

<sup>14</sup> The draft COP decision referred to in the present paragraph will be addressed under agenda item 10 of the Conference of the Parties.

## **Item 10. The Access and Benefit-sharing Clearing-House and information sharing (Article 14)**

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*The following draft decision is taken from document CBD/NP/MOP/3/8, section VII, except for paragraphs 3 and 4 which come from recommendations of the Compliance Committee contained in document CBD/NP/MOP/3/2, annex II, section C.*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol*

1. *Welcomes* progress made by the Secretariat in the implementation and operation of the Access and Benefit-sharing Clearing-House;<sup>15</sup>
2. *Welcomes* the efforts made by Parties, non-Parties, indigenous peoples and local communities and relevant stakeholders to make information available in the Access and Benefit-sharing Clearing-House;
3. *Urge* Parties that have not yet done so to publish all mandatory information available at the national level on the Access and Benefit-sharing Clearing-House in accordance with the obligations in Article 14, paragraph 2, of the Protocol, as soon as possible, considering that the publication of mandatory information in the Access and Benefit-sharing Clearing-House is essential for the implementation of the Nagoya Protocol;
4. *Urge* Parties to provide information on their access and benefit-sharing procedures through the common format on procedures, as available in the Access and Benefit-sharing Clearing House;
5. *Takes* note of the list of goals and priorities for the further implementation and administration of the Access and Benefit-sharing Clearing-House for the biennium 2019-2020 contained in annex I to the present decision;
6. *Adopts* the joint modalities of operation for the clearing-house mechanism of the Convention, the Biosafety Clearing-House and the Access and Benefit-sharing Clearing-House, contained in annex II to the present decision, which are complementary to the modalities of operation of the Access and Benefit-sharing Clearing-House adopted by the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol in decision [NP-1/2](#);<sup>16</sup>
7. *Expresses* appreciation for the technical guidance provided by the Informal Advisory Committee;
8. *Decides* that the Informal Advisory Committee will hold at least one meeting, and informal online discussions as needed, and report on the outcomes of its work to the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its fourth meeting;
9. *Invites* Parties, non-Parties, and relevant organizations to make use of the interoperability mechanisms of the Access and Benefit-sharing Clearing-House to facilitate information exchange with their relevant databases, websites and information technology systems;
10. *Invites* Parties, non-Parties, and relevant organizations, as appropriate, to include capacity-building activities related to the Access and Benefit-sharing Clearing-House into their relevant capacity-building activities, plans and projects in coordination with the Executive Secretary;
11. *Invites* Parties, non-Parties, relevant international organizations, regional development banks and other financial institutions, as appropriate, to support capacity-building activities related to the Access and Benefit-sharing Clearing-House, including the Protocol's system for monitoring the utilization of genetic resources;
12. *Requests* the Executive Secretary to continue to implement and administer the Access and Benefit-sharing Clearing-House by following the goals and priorities for the further implementation and administration of the ABS Clearing-House contained in annex I to the present decision, in accordance with the

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<sup>15</sup> CBD/NP/MOP/3/8.

<sup>16</sup> A similar decision will be considered by COP-14 and CP-MOP-9.

modalities of operation and feedback received, in particular that of Parties and of the Informal Advisory Committee to the Access and Benefit-sharing Clearing-House.

*Annex I*

**GOALS AND PRIORITIES FOR THE FURTHER DEVELOPMENT AND ADMINISTRATION OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE BY THE SECRETARIAT**

**Goal 1. Population and increased use of the Access and Benefit-sharing Clearing-House**

*Outreach and engagement*

- (a) Ensure that each Party has designated its publishing authority;
- (b) Encourage and assist with the publication of all available national information, in particular competent national authorities, access and benefit-sharing measures, access and benefit-sharing procedures, and internationally recognized certificates of compliance, as necessary;
- (c) Engage with indigenous peoples and local communities and other relevant stakeholders and organizations to encourage submission of reference records;
- (d) Provide regular ABS Clearing-House announcements on updates and changes as well as related information for ABS Clearing-House users;

*Capacity-building*

- (a) Disseminate and promote the use of the ABS Clearing-House capacity-building resources, including the e-learning module and step-by-step guides;
- (b) Translate capacity-building resources and make them available in all official languages of the United Nations;
- (c) Continue to provide face-to-face training (subject to available funding), as well as remote training upon request, as needed;
- (d) Collaborate with partners developing capacity-building projects to ensure they include relevant activities to support and promote the use of the ABS Clearing-House;
- (e) Raise awareness of the ABS Clearing-House among indigenous peoples and local communities and other relevant stakeholders, such as the business and scientific communities;
- (f) Raise awareness of the ABS Clearing-House in relevant international forums dealing with ABS-related issues;

*Interoperability and collaboration*

- (a) Continue to raise awareness and support capacity-building regarding the use of the interoperability mechanisms such as the application programming interface (API);
- (b) Facilitate the exchange of information with relevant national databases and systems;
- (c) Continue to collaborate with relevant instruments and initiatives (such as the International Treaty on Plant Genetic Resources for Food and Agriculture–Global Information System, InforMEA, World Federation for Culture Collections);

**Goal 2. Translation and functionality for operationalizing the Access and Benefit-sharing Clearing-House in the six official languages of the United Nations**

- (a) Continue the translation of material in the ABS Clearing-House as a top priority;
- (b) Ensure that mechanisms and standard procedures remain in place to enable website translation to continue in a timely fashion.

**Goal 3. Maintenance and improvement of functionality**

- (a) Maintain and improve functionalities and finalize remaining issues;
- (b) Finalize documentation of the application programming interface, the main mechanism for interoperability;



(c) Improve search functionality in order to sort and group records, as well as explore, analyse and present the published information in meaningful ways, including information related to capacity-building, including with the use of maps, charts and graphs, as appropriate;

(d) Improve management of the common vocabularies (thesaurus), including how information is tagged with keywords to improve the retrieval of information;

(e) Enhance website analytics to include tracking downloads and views of individual records and the files attached to them and provide national users with the relevant analytics and information;

(f) Improve functionality to allow the easy updating of records that include references to older versions of records;

**Goal 4. Integration with the clearing-house mechanism**

(a) Continue to support the implementation of CBD web strategy;

(b) Support the integration of the central clearing-house of the Convention and the Biosafety Clearing-House with the Access and Benefit-sharing Clearing-House under a single platform in order to ensure a coordinated approach to web development and related information technology infrastructure.

*Annex II*

**JOINT MODALITIES OF OPERATION FOR THE CENTRAL CLEARING-HOUSE MECHANISM, THE BIOSAFETY CLEARING-HOUSE AND THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE**

**A. Development and administration by the Secretariat**

1. The Secretariat shall continue to develop and administer the central clearing-house mechanism, the Biosafety Clearing-House, and the Access and Benefit-sharing Clearing-House (hereafter “clearing-houses”) in accordance with the relevant mandates and decisions under the Convention and its Protocols, ensuring to the extent possible, that common approaches are taken in the development and administration of the clearing-houses, while preserving the specific functionalities unique to each clearing-house, and on the basis of the guiding principles and core specifications described herein.

2. The clearing-houses shall be developed and implemented in a manner consistent with the following characteristics:

(a) Guided by the principles of inclusiveness, transparency, open access, and open to all Governments, indigenous peoples and local communities and relevant stakeholders;

(b) Developed on the basis of clear and identified demand, experience gained, and available resources, avoiding duplication of systems;

(c) Ensuring that the user experience is predictable and coherent across the clearing-houses;

(d) Ensuring that the visual design and functionality is intuitive, user-friendly and consistent across the clearing-houses;

(e) Ensuring, to the extent possible, the timely provision of on-demand technical assistance for using the clearing-houses.

3. The clearing-houses shall meet the following core specifications:

(a) Access and navigation through a publicly available web portal operational in the six official languages of the United Nations;

(b) A secure central database acting as the repository of available information;

(c) A secure submission mechanism, through a single sign-on, allowing users to publish information in a structured manner through common formats, metadata and controlled vocabulary, while distinguishing between mandatory and optional information;

(d) A publicly available search mechanism allowing the search and retrieval of the content through metadata and controlled vocabularies across all clearing-houses;

(e) Unique identifiers to search and retrieve information, where applicable;

(f) A secure update mechanism allowing users with the appropriate role to amend or update information;

(g) A design that clearly identifies who has made the information available;

(h) An interoperability mechanism to facilitate the exchange of information with external databases and systems, as appropriate;

(i) An offline mechanism to register information, as well as to facilitate offline access to available information, upon request and, in particular, for users with limited Internet access.

**B. Role of users with respect to the sharing of information**

4. When sharing information through any of the clearing-houses, users shall:

(a) Follow the procedures for publication established for each clearing-house or type of information;

(b) Take responsibility to ensure that the information made available is accurate, complete, relevant and up-to-date;

(c) Not include confidential data, since all information published in the clearing-houses is publicly available;

(d) Not infringe on any intellectual property rights associated with the information published;

(e) Provide metadata which describes the primary data (such as the elements describing the content of a legislative measure chosen from a controlled vocabulary) in an official language of the United Nations, while recognizing that the primary data (for example, a legislative measure), may be submitted in the original language;

(f) Endeavour to provide a courtesy translation into one of the official languages of the United Nations of the primary data submitted.

## Item 11. Monitoring and reporting (Article 29)

*The preambular text and paragraph 1 are taken from recommendation 2/11, section C of the Subsidiary Body on Implementation; paragraphs 2 to 7 come from recommendations from the Compliance Committee contained CBD/NP/MOP/3/2, annex II, section B; and paragraphs 8 and 9 come from the draft decision contained in section IV of document CBD/NP/MOP/3/7.*

*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing,*

*Recognizing* the importance of improving the alignment of national reporting under the Convention and its Protocols and of enhancing synergies among the biodiversity-related conventions and the Rio conventions as well as the 2030 Agenda for Sustainable Development<sup>17</sup> and reporting tools for the Sustainable Development Goals, and *noting* the progress made thus far in this respect,

1. *Accepts* the invitation of the Conference of the Parties to the Convention contained in decision 14/--,<sup>18</sup> and *agrees* to have a synchronized national reporting cycle commencing in 2023.
2. *Welcomes* the fact that 70 of the 100 Parties that had the obligation to report have submitted their interim national report;<sup>19</sup>
3. *Also welcomes* the interim national reports submitted by non-Parties;
4. *Urges* Parties that have not yet submitted their interim national report to do so as soon as possible;
5. *Expresses its appreciation* for the financial support provided by the Global Environment Facility for a number of eligible Parties to support the preparation of their interim national reports, and *note* the importance of timely availability of financial resources to support the preparation and submission of national reports by the reporting deadline;
6. *Welcomes* the efforts made by the Secretariat to assist Parties in submitting interim national reports;
7. *Requests* the Compliance Committee to provide an input to the review of the reporting format for the next reporting cycle;
8. *Requests* the Executive Secretary to review the reporting format for its consideration by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its fourth meeting, taking into account comments received, input from the Compliance Committee, the framework of indicators contained in decision NP-3/--, the post-2020 global biodiversity framework and the alignment of national reports under the Convention and its Protocols, while bearing in mind the need for continuity in the format in order to measure progress in implementation;
9. *Decides* to revisit the issue of intervals for reporting at a later meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, taking into account the alignment of national reports under the Convention and its Protocols and the post-2020 global biodiversity framework.

<sup>17</sup> General Assembly resolution 70/1 of 25 September 2015.

<sup>18</sup> The draft COP decision referred to in the present paragraph will be addressed under agenda item 12 of the Conference of the Parties.

<sup>19</sup> This number will be updated in the light of the number of interim national reports received ahead of the third meeting of the Parties.

**Item 12. Measures to raise awareness of the importance of genetic resources and associated traditional knowledge (Article 21)**

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*The following is taken from the draft decision contained in section IV of document CBD/NP/MOP/3/6.*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol*

1. *Takes note* of progress made in the implementation of the awareness-raising strategy for the Nagoya Protocol on Access and Benefit-sharing;<sup>20</sup>
2. *Welcomes* the awareness-raising toolkit for access and benefit-sharing developed by the Secretariat with a view to supporting the implementation of the awareness-raising strategy;
3. *Invites* Parties, non-Parties, relevant organizations and other actors to utilize the access and benefit-sharing awareness-raising toolkit developed by the Secretariat as part of their awareness-raising and capacity-building activities and to provide feedback on its use to the Secretariat;
4. *Also invites* Parties, non-Parties, relevant organizations and other actors to continue to implement awareness-raising activities and to make available information on awareness-raising strategies and resources through the Access and Benefit-sharing Clearing-House;
5. *Requests* the Executive Secretary to continue supporting the implementation of the awareness-raising strategy, including the use of the access and benefit-sharing awareness-raising toolkit, through its capacity-building activities and by encouraging the use of the access and benefit-sharing awareness-raising toolkit in access and benefit-sharing capacity-building and awareness-raising projects carried out by Parties, non-Parties and relevant organizations;
6. *Also requests* the Executive Secretary to seek feedback from Parties, non-Parties and other relevant actors on the access and benefit-sharing awareness-raising toolkit and to provide an update on the progress of implementation of the awareness-raising strategy for the consideration of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its fourth meeting.

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<sup>20</sup> CBD/NP/MOP/3/1/Add.2.

**Item 13. Enhancing integration under the Convention and its Protocols with respect to provisions related to access and benefit-sharing**

The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol will be invited to take note of the decision of the Conference of the Parties under agenda item 13 of the Conference of the Parties.

**Item 14. Cooperation with other international organizations, conventions and initiatives**

No draft decision has been prepared by the Executive Secretary under this item.

**Item 15. Review of effectiveness of structures and processes**

**Review of experience in holding concurrently meetings of the Conference of the Parties to the Convention, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol, and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol**

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*The following is taken from recommendation 2/15, section A of the Subsidiary Body on Implementation. The present draft decision is identical to the draft decision on the same subject under agenda item 15 of the fourteenth meeting of the Conference of the Parties.*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing,*

*Recalling decisions [XII/27](#), [CP-7/9](#) and [NP-1/12](#), [XIII/26](#), [XIII/33](#), [CP-8/10](#) and [NP-2/12](#),*

*Having reviewed the experience in holding concurrently meetings of the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, using the criteria determined in decisions XIII/26, CP-VIII/10 and NP-2/12, respectively, and taking into account the views of Parties, observers and participants at the thirteenth meeting of the Conference of the Parties to the Convention, the eighth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, and through the surveys conducted after the meetings,*

*Recognizing that a further review will be undertaken at the fifteenth meeting of the Conference of the Parties to the Convention, the tenth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,*

1. *Notes with satisfaction that the concurrent meetings have allowed for increased integration among the Convention and its Protocols, and improved consultations, coordination and synergies among the respective national focal points;*

2. *Notes that most of the criteria were considered as being met or partially met, and that further improvements in the functioning of the concurrent meetings are desirable, in particular to improve the outcomes and effectiveness of the meetings of the Parties to the Protocols;*

3. *Reiterates the importance of ensuring the full and effective participation of representatives of developing country Parties, in particular the least developed countries and small island developing States among them, and countries with economies in transition, in the concurrent meetings, and highlights, in this respect, the importance, in particular, of ensuring adequate participation of representatives in meetings of the Protocols by making funding available for such participation, including in intersessional meetings;*

4. *Requests the Bureau and the Executive Secretary, when finalizing the proposed organization of work for the fifteenth meeting of the Conference of the Parties to the Convention, the tenth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol and the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, to take into account the present decision and the information contained in the note by the Executive Secretary;<sup>21</sup>*

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<sup>21</sup> CBD/SBI/2/16 and Add.1.

## Procedure for avoiding or managing conflicts of interest in expert groups

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*The following is taken from recommendation 2/15, section B of the Subsidiary Body on Implementation. The annex has been revised by the Executive Secretary in light of views submitted pursuant to paragraph 3 of SBI recommendation 2/15. The present draft decision is identical to the draft decision on the same subject under agenda item 15 of the fourteenth meeting of the Conference of the Parties.*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing,*

*Recognizing* the critical importance of taking decisions on the basis of the best available expert advice,

*Recognizing also* the need to avoid conflicts of interest by members of expert groups established from time to time to develop recommendations,

1. *Approves* the procedure for avoiding or managing conflicts of interest contained in the annex to the decision 14/--;<sup>22</sup>

2. *Requests* the Executive Secretary to ensure the implementation of the conflict of interest management procedure with respect to the work of technical expert groups, in consultation with the Bureau of the Subsidiary Body on Scientific, Technical and Technological Advice or the Conference of the Parties, as appropriate.

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<sup>22</sup> The draft COP decision referred to in the present paragraph will be addressed under agenda item 15 of the Conference of the Parties. The annex will be finalized in accordance with paragraph 3 of the recommendation of the Subsidiary Body on Implementation requesting the Executive Secretary to invite views

**Item 16. Preparation for the follow-up to the Strategic Plan for Biodiversity 2011-2020**

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*Paragraphs 1 to 3 are taken from recommendation 2/19 of the Subsidiary Body on Implementation. Paragraphs 4 and 5 come from recommendations from the Compliance Committee contained in document CBD/NP/MOP/3/2, annex II, section D*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol*

1. *Takes note* of the proposed preparatory process for the post-2020 global biodiversity framework in follow-up to the Strategic Plan for Biodiversity 2011-2020, and *welcomes* decision 14/-- of the Conference of the Parties;
2. [*Decides* to develop a specific plan for the Nagoya Protocol as part of the post-2020 global biodiversity framework, and *requests* the Executive Secretary to facilitate the development of its elements].
3. *Invites* Parties to participate in the process for developing the post-2020 global biodiversity framework.
4. *Recommends* that the findings on general issues of compliance<sup>23</sup> be considered in the development of the post-2020 global biodiversity framework;
5. *Requests* that the Compliance Committee at its next meeting consider how to support and promote compliance with the Nagoya Protocol within the post-2020 global biodiversity framework.

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<sup>23</sup> Findings and recommendations of the Compliance Committee on general issues of compliance as a contribution to the assessment and review of the Nagoya Protocol are contained in annex I of the report of the Compliance Committee under the Nagoya Protocol on the work of its second meeting CBD/NP/MOP/3/2.



**Item 17. Digital sequence information on genetic resources**

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*The following is taken from recommendation 22/1 of the Subsidiary Body on Scientific, Technical and Technological Advice. (Note that this item will be considered in conjunction with item 18 of the Conference of the Parties)*

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*[The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, Mindful of the objective of the Nagoya Protocol,*

*[Recalling Articles 5(1), 8, 17, 20, 22 and 23 of the Nagoya Protocol,]*

*Acknowledging decision 14/-- of the Conference of the Parties,<sup>24</sup>*

1. *Decides* that the ad hoc technical expert group referred to in paragraph x of decision 14/-- will also serve the Nagoya Protocol;
2. *Requests* the Subsidiary Body on Scientific, Technical and Technological Advice to consider the outcomes of the ad hoc technical expert group and to make a recommendation for the consideration of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its fourth meeting.]

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<sup>24</sup> The draft COP decision referred to in the present paragraph will be addressed under agenda item 18 of the Conference of the Parties.

**Item 18. Specialized international access and benefit-sharing instruments in the context of Article 4, paragraph 4, of the Nagoya Protocol**

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*The following is taken from recommendation 2/5 of the Subsidiary Body on Implementation*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,*

*Recognizing* the need to strengthen coordination and mutual supportiveness among international instruments on access and benefit-sharing,

*Acknowledging* that any criteria to identify a specialized international access and benefit-sharing instrument and any process for recognition of such an instrument is not intended to create a hierarchy between the Nagoya Protocol and other international instruments,

1. *Takes note* of the study<sup>25</sup> and potential criteria for specialized international access and benefit-sharing instruments in the context of Article 4, paragraph 4, of the Nagoya Protocol as summarized in the annex below, and *agrees* to reconsider these potential criteria at its fourth meeting;

2. *Invites* Parties and other Governments to submit:

(a) Information on how specialized international access and benefit-sharing instruments are addressed in their domestic measures;

(b) Views on the potential criteria contained in the study, taking into account Article 4, paragraphs 1 to 3, of the Protocol;

3. *Requests* the Executive Secretary to continue to follow developments in relevant international forums;

4. *Also requests* the Executive Secretary to synthesize the information and views submitted, including the information from developments in relevant international forums, and make it available for consideration by the Subsidiary Body on Implementation at its third meeting;

5. *Requests* the Subsidiary Body on Implementation at its third meeting to consider the synthesis referred to in paragraph 4 above and to make a recommendation to the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its fourth meeting;

6. *Decides* to include a standing item on “cooperation with other international organizations” on the agenda of its future meetings to take stock of developments in relevant international forums, including any information on specialized international access and benefit-sharing instruments recognized by another intergovernmental body and/or by a Party or group of Parties, with a view to enhancing mutual supportiveness between the Protocol and specialized international access and benefit-sharing instruments;

7. *Invites* Parties and other Governments to coordinate at the national level regarding access and benefit-sharing issues addressed in different international forums, as appropriate, in order to support a coherent international regime on access and benefit-sharing;

8. *Invites* Parties and other Governments which are or may become Parties to the Nagoya Protocol and to a specialized international access and benefit-sharing instrument, as appropriate, to take steps to implement both instruments in a mutually supportive manner, including with the participation of indigenous peoples and local communities, where relevant or applicable, according to their national circumstances.

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<sup>25</sup> “Study into criteria to identify a specialized international access and benefit-sharing instrument, and a possible process for its recognition” (CBD/SBI/2/INF/17).

*Annex*

**Potential criteria for specialized international access and benefit-sharing instruments in the context of Article 4, paragraph 4, of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization**

1. *Intergovernmentally agreed* — The instrument would be developed and agreed through an intergovernmental process. The instrument may be binding or non-binding.
2. *Specialized* — The instrument would:
  - (a) Apply to a specific set of genetic resources and/or traditional knowledge associated with genetic resources which would otherwise fall under the scope of the Nagoya Protocol;
  - (b) Apply to specific uses of genetic resources and/or traditional knowledge associated with genetic resources which require a differentiated and hence specialized approach.
3. *Mutually supportive* — The instrument would be consistent with and supportive of, and not run counter to the objectives of the Convention on Biological Diversity and the Nagoya Protocol, including with respect to:
  - (a) Consistency with biodiversity conservation and sustainable use objectives;
  - (b) Fairness and equity in the sharing of benefits;
  - (c) Legal certainty with respect to access to genetic resources or traditional knowledge associated with genetic resources and to benefit-sharing;
  - (d) Contribution to sustainable development, as reflected in internationally agreed goals;
  - (e) Other general principles of law, including good faith, effectiveness and legitimate expectations.

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**Item 19. Global multilateral benefit-sharing mechanism (Article 10)**

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*The following is taken from recommendation 2/4 of the Subsidiary Body on Implementation.*

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*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,*

*Mindful of the objective of the Nagoya Protocol,*

*Recalling the sovereign right of States over their genetic resources,*

*Recalling also Article 10 of the Nagoya Protocol,*

*Recalling further Articles 11 and 22 of the Nagoya Protocol,*

*Acknowledging the work undertaken [to explore the need for a global multilateral benefit-sharing mechanism] further to decisions XI/1 B, NP-1/10 and NP-2/10, including the online forum, the study on experiences gained with the development and implementation of the Nagoya Protocol and other multilateral mechanisms and processes, the syntheses of views and the outcomes of the two expert meetings on Article 10,<sup>26</sup>*

*[Recognizing from the work already undertaken that the need for a global mechanism has been demonstrated to move ahead with elaborating the modalities of a global multilateral benefit-sharing mechanism to address fair and equitable benefit-sharing in transboundary situations or situations for which it is not possible to grant or obtain prior informed consent,]*

*[Noting that benefits generated through the global multilateral benefit-sharing mechanism and shared with the custodians of biodiversity and traditional knowledge associated with genetic resources is a valuable incentive for the conservation and sustainable use of biodiversity and its components,]*

*[Recognizing that many Parties are still in the early stages of implementing the Protocol][Notwithstanding the different stages in the implementation of the Nagoya Protocol by Parties, efforts towards the full and effective implementation of the Nagoya Protocol in its entirety should not be hindered],*

*Recognizing also the ongoing need for capacity-building to support Parties and indigenous peoples and local communities in developing and implementing legislative, administrative and policy measures on access and benefit-sharing,*

1. *Welcomes* the information synthesized by the Executive Secretary through the interim national reports and the Access and Benefit-Sharing Clearing-House of relevance to Article 10;

2. *Takes note* of the information on developments in relevant international processes and organizations;

[3. *Decides* that the need for a global multilateral benefit-sharing mechanism has been sufficiently demonstrated through various submissions of views and studies carried out in connection with Article 10 for Parties to start to consider the modalities of a global multilateral benefit-sharing mechanism;]

4. *Considers* that more information on specific cases for a global multilateral benefit-sharing mechanism [that are not covered under the bilateral approach] would assist Parties in the consideration of [the modalities in line with] Article 10;

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

(a) To convene moderated open-ended online discussions to [identify and] discuss [the] specific cases for a global multilateral benefit-sharing mechanism [and the possible modalities for such a mechanism];

(b) To compile the outcomes of the online discussions [and provide possible options for the modalities of a global multilateral benefit-sharing mechanism] for consideration by the Subsidiary Body on Implementation at its third meeting;

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<sup>26</sup> [UNEP/CBD/ICNP/3/5](#) and [UNEP/CBD/NP/COP-MOP/2/10](#).

(c) To update the information regarding developments in other relevant international processes and organizations and submit it for consideration by the Subsidiary Body on Implementation at its third meeting;

6. *Requests* the Subsidiary Body on Implementation at its third meeting to consider the information in paragraph 5(b) and (c) above and make recommendations for consideration by the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its fourth meeting.

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