



Convention on Biological Diversity

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**Ad Hoc Open-ended Working Group on
Benefit-sharing from the Use of Digital
Sequence Information on Genetic Resources
First meeting
Geneva, 14–18 November 2023
Item 3 of the provisional agenda*
Issues for further consideration set out in the
annex to decision 15/9**

Overview of information gathered further to decision 15/9 and key points for consideration by the Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources

Note by the Secretariat

I. Background

1. In its decision [15/9](#), adopted at its fifteenth meeting, the Conference of the Parties to the Convention on Biological Diversity agreed that the benefits from the use of digital sequence information on genetic resources (DSI) should be shared fairly and equitably. In paragraphs 9 and 10 of the decision, it set out a number of principles to follow for a solution for fair and equitable benefit-sharing on DSI.
2. In the same decision, the Conference of the Parties established a multilateral mechanism for benefit-sharing from the use of DSI, including a global fund, and a fair, transparent, inclusive, participatory and time-bound process to further develop and operationalize the mechanism. The process comprised the establishment of an ad hoc open-ended working group on benefit-sharing from the use of digital sequence information on genetic resources and an invitation to Parties, other Governments, indigenous people and local communities and relevant organizations to submit views on the issues set out in the annex to the decision, as well as requests to the Executive Secretary to compile and synthesize those views, compile lessons learned from other international funding mechanisms and commission two studies.
3. The Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources is to undertake further development of the multilateral mechanism, including the elements identified in the annex to the decision, and to make recommendations to the Conference of the Parties at its sixteenth meeting.
4. In its decision [NP-4/6](#), adopted at its fourth meeting, the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access to Genetic Resources and the Fair and

* CBD/WGDSI/1/1.

Equitable Sharing of Benefits Arising from their Utilization to the Convention welcomed decision 15/9, endorsed the process established therein and requested the Working Group to report to the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its fifth meeting.

5. Through notifications Nos. [2023-003](#) and [2023-023](#), the Secretariat invited Parties, other Governments, indigenous peoples and local communities and relevant organizations to submit views on issues for further consideration for DSI. The submissions thus received have been compiled and made available online¹ and synthesized in document CBD/WGDSI/1/2/Add.1.

6. The lessons learned from other international funding mechanisms have been compiled through a cooperation between the Secretariat and the Centre for Environmental Law and Governance of the University of Strathclyde. The compilation covers 14 international funding mechanisms, including those referred to in paragraph 22 (a) of decision 15/9, thereby providing a broad overview of experience in that area. The executive summary can be found in document CBD/WGDSI/1/2/Add.2, while the full study will be made available as document CBD/WGDSI/1/INF/1.

7. Lastly, an update on the commission of the two studies will be provided in document CBD/WGDSI/1/2/Add.3.

II. Key points on the thematic groups for further consideration

8. The annex to decision 15/9 contains a list of 16 issues for further consideration. To facilitate discussions, the issues have been clustered into groupings that have been used to structure the synthesis of views mentioned in paragraph 5 above (see the annex for a schematic diagram of the groupings). The present section follows those groupings, summarizing the main points from the synthesis of submitted views and from the compilation of lessons learned.

9. The table below provides an overview of the groupings of the issues from the annex to decision 15/9. A number of issues are cross-cutting, in particular the “role, rights and interests of indigenous peoples and local communities, including associated traditional knowledge” and the “role and interests of industry and academia”. Specific groupings where those issues are addressed are indicated in the table; however, some aspects of those issues are covered in most, if not all, of the groupings.

Grouping of issues for further consideration

<i>Grouping heading</i>	<i>Issues for further consideration from decision 15/9</i>
A. Contributions to the fund	(b) Triggering points for benefit-sharing (c) Contributions to the fund <i>Some aspects of:</i> (n) Role and interests of industry and academia
B. Disbursement of the funds	(e) Disbursement of monetary benefits, including information on geographical origin as one of the criteria <i>Some aspects of:</i> (m) Role, rights and interests of indigenous peoples and local communities, including associated traditional knowledge
C. Non-monetary benefit-sharing	(f) Non-monetary benefit-sharing, including information on geographical origin as one of the criteria (h) Capacity development and technology transfer

¹ See www.cbd.int/notifications/2023-003.

	(o) Linkages between research and technology and the multilateral mechanism on benefit-sharing
D. Governance	(a) Governance of the fund (i) Monitoring and evaluation and review of effectiveness (p) Principles of data governance <i>Some aspects of:</i> (m) Role, rights and interests of indigenous peoples and local communities, including associated traditional knowledge (n) Role and interests of industry and academia
E. Relation to other approaches and systems	(d) Potential to voluntarily extend the multilateral mechanism to genetic resources or biological diversity (g) Other policy options for the sharing of benefits from the use of digital sequence information on genetic resources, including as identified through further analysis, as referred to in paragraphs 6 and 7 of the decision 15/9 (k) Interface between national systems and the multilateral mechanism on benefit-sharing (l) Relationship with the Nagoya Protocol (j) Adaptability of the mechanism to other resource mobilization instruments or funds

A. Contributions to the fund

1. Submitted views

10. The triggers for the sharing of benefits most frequently suggested by submitters were the commercialization of a product derived or linked to DSI, the production of such a product, intellectual property right registration, the use of tools to analyse DSI for research, access to databases and voluntary contributions. Other trigger points were also proposed but garnered less support.

11. The main challenges to the proposed trigger points cited by submitters concerned the need to keep DSI open in public databases (so as not to hinder science and innovation); the weak linkages between intellectual property rights and successful commercialization; the need for trigger points to be legally and technically feasible (e.g. difficulties with tracking and tracing were mentioned, as well as the complexity of the research process to a finished product); the need to be practical, predictable and flexible (e.g. from one industry or region to another); and the need to ensure that the trigger points are not more burdensome for some stakeholders than for others.

12. Views on potential contributions to the global fund included discussions on the roles of users of DSI, with an emphasis on mandatory contributions from industry in developed countries and the inclusion of non-consumptive industry, and voluntary funds as: (a) the sole source of contributions to the fund; (b) contributions to get the fund started until other sources of funding became substantial; or (c) part of regular contributions.

13. Proposals for the basis for calculating contributions to the fund included a percentage of the retail price or the benefit from the sale of a commercial product. including several proposals for lower contributions in the case of: (a) the public release of data, taking into account the level of dependence of the product on DSI; (b) the company's contribution to non-monetary benefits; (c) certain types of industry; (d) certain types of intellectual property right; and (e) the level of development of the country. Other submitters proposed calculating the total contribution from a country solely on the basis of its level of development. Proposals for the frequency of the contribution varied from a one-off payment to an annual payment, depending on the trigger point concerned. Some submitters

suggested that all payments to the fund be channelled to the fund through national Governments, while others suggested that other types of entities needing to share benefits from the use of DSI (e.g. industry, researchers and retailers) be able to make payments directly to the fund themselves.

2. Lessons from international funding mechanisms

14. The study found that large-scale funds tended to be dependent on governmental contributions. In the case where those contributions took the form of regular replenishments, the levels of funding tended to be higher and more predictable, making programme planning easier. This is the case for the Global Environment Facility (GEF) and the Green Climate Fund. However, such contributions and replenishment cycles can be dependent on external factors, which can be positive when there is momentum, such as that created by the adoption of the Kunming-Montreal Global Biodiversity Framework, or negative, such as when political priorities shift elsewhere.

15. An endowment fund can also provide some predictability. Where private and public contributions build a substantial endowment, the interest thereon can be used to fund activities. The Global Crop Diversity Trust follows such a model, which is heavily dependent on the ability to ensure substantial initial contributions.

16. In terms of non-governmental sources of funding, some funds mobilize user-based or market-based mechanisms, which tend to struggle to provide the required levels of contributions or a reasonable level of predictability. Other funds rely on voluntary contributions or bonds from the private sector, but also with limited success.

B. Disbursement of the funds

1. Submitted views

17. It was widely suggested that monetary benefits go primarily to indigenous peoples and local communities, although views varied as to whether this should be limited to indigenous peoples and local communities from developing countries and countries with economies in transition or include those from developed countries. It was also suggested that only countries that joined the multilateral mechanism and did not have national legislation conflicting with a multilateral approach be eligible to receive benefits. Disbursement could be done through recipient countries or directly to representatives of indigenous peoples and local communities.

18. A few submitters suggested benefit-sharing on the basis of tracking and tracing DSI to the country of origin; however, numerous submitters cautioned against tracking and tracing as a basis for monetary benefit-sharing, as it was not practical (as also recognized in decision 15/9) and could hinder research. Nonetheless, it was proposed that geographical information be used as part of calculations for the distribution of monies from the fund.

19. Many criteria for the distribution of monetary benefits were proposed, the main ones being regional balance, contributions to publicly available DSI, country needs, including conservation needs and capacity needs, and the needs of indigenous peoples and local communities. With regard to indigenous peoples and local communities, emphasis was placed on the need for the mechanism to be supportive of their right to protect their traditional knowledge.

20. Submitters proposed that money for projects be disbursed either on a competitive basis or in line with pre-agreed funding priorities. Those could be aligned with the objectives of the Convention or set by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, the Permanent Forum on Indigenous Issues, the Conference of the Parties to the Convention or the International Union for Conservation of Nature, or by developing countries or indigenous peoples and local communities themselves.

2. Lessons from international funding mechanisms

21. Most funds were found to disburse money through projects, most short-term and some longer-term, all having to meet certain pre-agreed criteria. Co-financing requirements were common, with

some funds requiring the co-financing to be provided by the recipient country, and other funds enabling various donors to provide co-financing, including, in some cases, the private sector.

22. Funds are often distributed to countries through accredited entities, typically multilateral organizations, or some national organizations. A few mechanisms were found to disburse funds directly to local community organizations, including the GEF Small Grants Programme and the Benefit-sharing Fund of the International Treaty on Plant Genetic Resources for Food and Agriculture.

C. Non-monetary benefit-sharing

1. Submitted views

23. The goal of sharing non-monetary benefits was presented as closing the gap in research capacity involving DSI and achieving equity in research relationships. Potential trigger points for non-monetary benefits were suggested, the main ones being the point of collection of the genetic resource, its export, application for research funds, third-party transfer and the transfer of research results. Suggested outcomes were the improved ability to manage and conserve biodiversity, as well as some sectoral goals in agriculture, taxonomy and health.

24. Many submissions included examples of possible non-monetary benefits, including the open sharing of data; research collaboration and scientific and technical cooperation with local partner universities in developing countries; technology transfer for genomics infrastructure, software and informatics equipment; capacity-building on partnerships, research involving DSI and bioinformatics, data governance and management; and developing the capacity of indigenous peoples and local communities in terms of resource management and the valuation of traditional knowledge.

25. An overarching strategy on capacity-building was proposed to help to avoid overlap with other institutions and initiatives. Principles were suggested to guide non-monetary benefits in the multilateral mechanism, such as contributing to meeting the objectives of the Convention, facilitating public-private partnerships and channelling benefits to local communities or initiatives.

26. The financing of the activities could be blended, and the criteria most frequently proposed for their selection were the need for biodiversity sequencing, the level of development of the country concerned and the cost-effectiveness of the activity or project.

27. Regarding linkages between research and technology and the multilateral mechanism, some submitters expressed concern that the mechanism could negatively affect research and innovation by hindering open access to data. Others viewed the linkages as potentially positive, noting the potential to build capacity, in particular for research aimed at conservation and sustainable use, North-South collaboration and the increased generation and use of DSI. The impact of research and innovation on the multilateral mechanism was perceived as positive, with an increased use of resources for research involving DSI leading to increased activity, including innovation and value creation for DSI fuelling the multilateral mechanism, as well as the development of the taxonomic infrastructure necessary for the monitoring of the Framework.

2. Lessons from international funding mechanisms

28. Several of the funds invest in technology transfer, scientific and technological collaboration, capacity-building and learning, and knowledge transfer.

D. Governance

1. Submitted views

29. Most submitters suggested that the overarching goal of the fund be to support the conservation and sustainable use of biodiversity. Other suggested goals included support for research and technology development or for other existing goals, such as the Sustainable Development Goals.

30. Most submitters suggested the establishment of a governing body for the global fund. Many proposed equal regional representation and the inclusion of indigenous peoples and local communities as participants; the representation of private sector, civil society and academia as either participants or observers; and the representation of non-Parties as observers. One suggestion was to mirror the GEF Governing Council.

31. According to submitters, the global fund could be hosted by GEF, either as part of or separately from the Global Biodiversity Framework Fund, or by the Secretariat of the Convention. Some submitters expressed concern about the ability of indigenous peoples and local communities to gain direct access to funds and the ability of GEF to accept voluntary funds. Several submitters stated that the fund should be under the supervision of the Conference of the Parties to the Convention.

32. Most submitters focused on the principles set out in paragraphs 9 and 10 of decision 15/9, but other principles were also mentioned, such as transparency in governance and process, adopting an agile approach and the suggestion of running a pilot mechanism.

33. The majority of submitters discussed the importance of the multilateral mechanism for the rights, representation and recognition of indigenous peoples and local communities, and several cited the need for indigenous peoples and local communities to control their traditional knowledge and benefits, either through their prior informed consent and mutually agreed terms or through some agreed royalty and non-monetary benefit. Several submitters suggested some mechanisms for notification when DSI linked to traditional knowledge or the lands of indigenous peoples and local communities was used, either through tagging or by hosting them in their own databases.

34. In terms of the role and interests of industry and academia as they pertained to governance, many submitters mentioned the need to involve them in the design of the mechanism and the fund. It was suggested that their understanding of the complex value chains was important and would be useful in discussions about the risk of double payments. It was also suggested that their involvement could help to ensure that the multilateral mechanism was able to address future technological developments.

35. In terms of monitoring, evaluation and the review of effectiveness of the mechanism and the fund, submitters mentioned a need for operational efficiency, fairness and transparency, as well as agility of the mechanism in the light of the results from monitoring. The first evaluation could be conducted in time for consideration at the eighteenth meeting of the Conference of the Parties to the Convention, either on the mechanism or on a pilot of it. It was suggested that such monitoring could be undertaken in coordination with the monitoring of the Kunming-Montreal Global Biodiversity Framework, and potentially other international forums. Challenges in monitoring non-monetary benefit-sharing were mentioned, although it was suggested that work carried out under Goal C and Target 13 of the Framework or under the Long-term Strategic Framework for Capacity-building and Development of the Convention could assist in this regard. It was also suggested that national authorities, the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services or the governing body of the multilateral mechanism report on monitoring and evaluation, potentially depositing results in a clearing house. It was further suggested that key performance indicators might be needed, including some addressing the principles set out in paragraphs 9 and 10 of decision 15/9.

Data governance

36. Submitters described and discussed two main data governance models, namely, the findability, accessibility, interoperability, reusability (FAIR) principles, which promote open data for all uses through a unique or restricted number of licences, and the collective benefits, authority to control, responsibility, ethics (CARE) principles, which promote the data sovereignty of indigenous peoples and local communities and put the responsibility of compliance on users. It was explained that there could be tension between those two sets of principles, that is, between the notion of open data and that of control of data by indigenous peoples and local communities.

37. Several submitters put forward the idea of an open and responsible data governance framework that would integrate the FAIR and CARE principles, follow recommendations from the Organisation for Economic Co-operation and Development and the United Nations Educational, Scientific and Cultural Organization and be inclusive of all relevant stakeholders during design, implementation and monitoring. Suggestions were also made to consider approaches to data governance in other instruments, and a few submitters called for one coherent, flexible and scalable data governance model that would cut across other instruments, such as the International Treaty on Plant Genetic Resources for Food and Agriculture, the new Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction and texts being negotiated under the World Health Organization (WHO), and that would comply with the international legal and ethical requirements of data protection.

38. Submitters also pointed out that there was no single or common understanding of “open data”. Some called for a distinction between public and private databases and between the commercial and the non-commercial use of DSI.

39. Submitters provided explanations for the inclusion or exclusion of various types of metadata in databases, either calling for more metadata to be included to maximize the use of DSI, or cautioning against the possibility of metadata manipulation, either as a result of poor-quality data or even as fake data.

40. In terms of the importance of data interoperability, such principles as transparency, integrity and collaboration were mentioned, as was the notion that linkages between repositories could help to increase metadata associated with DSI, rather than having all data centralized in one database, thereby increasing its discoverability and utility.

41. The idea of national databases helping with the tracking and tracing of DSI coming from genetic resources from any one country was proposed in a few submissions, shifting the responsibility of due diligence from the submitter to the service provider. Countries would then be able to choose to share the data through a central node. It was proposed that the Secretariat of the Convention oversee the terms of references for the components of such a network of databases. A number of submitters, however, cautioned against interfering with the current governance and practices of databases.

2. Lessons from international funding mechanisms

42. Most funds were found to be governed by a body tasked with providing strategic direction and oversight of the use of the funds. The governing bodies of many of the funds receive strategic guidance and, sometimes, oversight from the governing bodies of the instruments that they serve. For example, the Conference of the Parties to the Convention provides strategic guidance to GEF.

43. The major funds that support international instruments have governing bodies composed primarily of government representatives. In some cases, the composition of those bodies is based on equal regional representation, while in other cases, the composition gives more weight to donor countries. A number of funds also have seats for observers from indigenous peoples and local communities, civil society or industry.

44. Some funds also have independent boards of experts nominated by major participants in the fund.

45. Most funds incorporate a monitoring and evaluation process, with some funds promoting iterative learning and an overarching framework at the centre of their approach.

46. The Green Climate Fund also acknowledged the need to take into consideration more diverse forms of knowledge, with their Indigenous People’s Advisory Group recommending working on clarifying the role of data and information from traditional, local and indigenous knowledge and practices in the assessment of concept notes, project preparation and the funding of proposals.

E. Relation to other approaches and systems

Submitted views

47. In several submissions, it was proposed that the multilateral mechanism begin by focusing on digital sequence information and that its potential extension to genetic or biological resources be considered at a later stage. A number of submitters noted the potential advantages of a common system for DSI and genetic resources, arguing for a standardized, clear and simple approach. Some submitters noted that extending the scope of the mechanism could have implications for other instruments and processes, such as the International Treaty on Plant Genetic Resources for Food and Agriculture or negotiations under way in WHO.

48. In terms of policy options other than the multilateral one established in decision 15/9 some submitters proposed hybrid approaches whereby endemic species, products from the use of DSI from a single country of origin, products from the territories of indigenous peoples and local communities or products associated with traditional knowledge would all fall under a bilateral exception system. However, other submitters expressed concerns about the potential for added administrative complexity, jurisdiction shopping and the lack of affordable and reliable technology for tracking and tracing DSI.

49. In terms of potential linkages with national systems, several submitters expressed the need to consider existing national frameworks, possibly updating them to meet the criteria set out in decision 15/9 and ensuring that there is no double payments from the use of DSI. Several submitters described an opt-in or opt-out system, whereby Parties would either have their own national laws, which they were responsible for enforcing, therefore opting out of the multilateral mechanism, or would choose to opt in the mechanism and rescind their national laws in favour of benefits from the DSI mechanism. Other submitters suggested a middle approach, whereby Parties that kept their national access and benefit-sharing laws could receive benefits from the multilateral mechanism but at a lower level than Parties that rescinded their national laws in that area.

50. With regard to the relationship with the Nagoya Protocol, there were some concerns about the possibility that the multilateral mechanism might undermine rights and responsibilities under the Protocol and conflict with mutually agreed terms that included DSI. On the other hand, there were suggestions that elements of the Protocol could help to inform the development of the mechanism, such as community protocols and capacity-building. Other submitters pointed to Article 8 of the Protocol, on special considerations, and expressed the view that health-related considerations needed to be taken into account in the development of the mechanism, including with regard to pathogens.

51. When considering the adaptability of the multilateral mechanism to other existing international instruments or funds, many submitters expressed concerns about the fragmentation of the financial landscape and the risk of duplication of requirements, conflicting trigger points and data privacy and ethical guidelines. Suggestions were focused on a reduced number of instruments, one single fund with earmarked contributions or the coordination of separate funds. A number of submitters noted that related discussions were being held under the World Health Organization, the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, the International Treaty on Plant Genetic Resources for Food and Agriculture and the World Intellectual Property Organization.

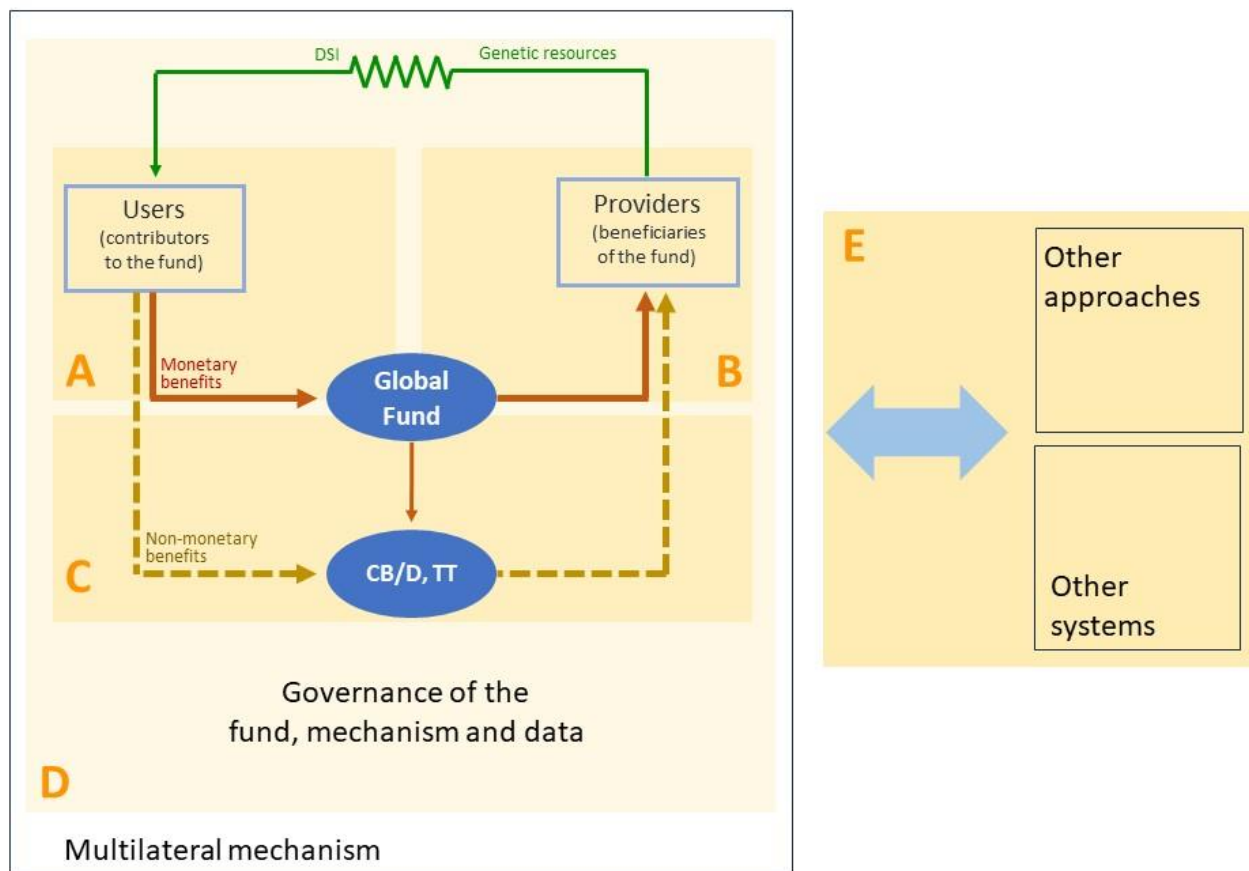
III. Proposed way forward for the Working Group

52. The Working Group may wish to have an initial exchange of views on the issues for further consideration listed in the annex to decision 15/9 and as organized by clusters in section II above. On the basis of the initial exchange of views, the Working Group, with the support of contact groups, as appropriate, may wish to have more focused discussions on some of the issues, in particular those with the best potential for progress in the first meeting. The discussions can be aimed at elaborating ideas and views and building common understanding.

53. In addition, recalling the time-bound process agreed to in decision 15/9, the Working Group may wish to consider what additional consultations may be useful before its second meeting to fulfil its mandate of undertaking further development of the multilateral mechanism and making recommendations to the Conference of the Parties at its sixteenth meeting.

Annex

Schematic diagram of the multilateral mechanism showing the proposed grouping of issues for further consideration



Abbreviations: CB/D, capacity-building/development; DSI, digital sequence information on genetic resources; TT, technology transfer.