

NON-PAPER ON ITEM 11

Draft decision submitted by the President

Digital sequence information on genetic resources

The Conference of the Parties,

Recalling that the Convention on Biological Diversity and the Nagoya Protocol and other access and benefit-sharing instruments provide the legal framework for access to genetic resources and the fair and equitable sharing of the benefits arising from their utilization,

Recalling decision 14/20,

Noting the outcomes of the science- and policy-based process on digital sequence information on genetic resources established in decision 14/20,¹

Noting also the Informal Co-Chairs' Advisory Group on digital sequence information on genetic resources established by the Co-Chairs of the Open-Ended Working Group on the Post-2020 Global Biodiversity Framework and the Executive Secretary, and the work on digital sequence information on genetic resources undertaken by the Advisory Group, including consideration of policy options,²

Further noting the work of the Open-Ended Working Group on the Post-2020 Global Biodiversity Framework, in particular the information in the note by the Executive Secretary on digital sequence information on genetic resources (CBD/WG2020/5/3),

Recognizing that there are divergent views on digital sequence information on genetic resources in the context of the Convention on Biological Diversity,

Recognizing also that digital sequence information on genetic resources is under consideration in other United Nations bodies and instruments,

Further recognizing that any solution for the fair and equitable sharing of benefits from the use of digital sequence information on genetic resources should be mutually supportive of and adaptable to other instruments and fora while *recognizing* that other fora may develop specialized approaches,

Acknowledging that combining the generation of, access to, and use of digital sequence information on genetic resources with the fair and equitable sharing of benefits arising from its use supports research and innovation and contributes to achieving the three objectives of the Convention and sustainable development,

Emphasizing the importance of capacity-building and development, technology transfer and technical and scientific cooperation to support generation of, access to, and use of digital sequence information on genetic resources,

Recognizing the importance of digital sequence information on genetic resources for the post-2020 global biodiversity framework,

Recognizing also that a solution for benefit-sharing from the use of digital sequence information on genetic resources is also a wide-ranging solution for the mobilization of resources to support the conservation and sustainable use of biological diversity,

¹ CBD/DSI/AHTEG/2020/1/2; CBD/DSI/AHTEG/2020/1/3; CBD/DSI/AHTEG/2020/1/4; CBD/DSI/AHTEG/2020/1/5; Report of the Ad Hoc Technical Expert Group on Digital Sequence Information on Genetic Resources, CBD/DSI/AHTEG/2020/1/7.

² CBD/WG2020/3/INF/8; CBD/WG2020/4/INF/4; CBD/WG2020/5/INF/1.

Further recognizing the value of depositing data in public databases,

Welcoming the efforts of databases, including the International Nucleotide Sequence Database Collaboration, to encourage the tagging of records with information on the geographical origin,

Acknowledging the FAIR³ and CARE⁴ principles, the framework for data governance provided by the Organisation for Economic Co-operation and Development recommendation on enhancing access to and sharing of data, and the recommendations set out in the United Nations Educational, Scientific and Cultural Organization Recommendation on Open Science,

Recognizing that a solution on benefit-sharing from the use of digital sequence information on genetic resources may include innovative revenue generation measures,

Noting that the differences between public and private databases should be considered in the development of a solution on benefit-sharing from the use of digital sequence information on genetic resources,

Recognizing the different understandings of the concept and scope of digital sequence information on genetic resources, and the range of views regarding the need to define such concept and scope,

1. *Agrees* on the continuing use of the term “digital sequence information” for further discussions;

2. *Also agrees* that the benefits from the use of digital sequence information on genetic resources should be shared fairly and equitably;

3. *Considers* that the distribution of digital sequence information on genetic resources and distinctive practices in its use require a distinctive solution for benefit-sharing;

4. *Encourages* the depositing of more digital sequence information on genetic resources, with appropriate information on geographical origin and other relevant metadata in public databases;

5. *Recognizes* that tracking and tracing of all digital sequence information on genetic resources is not practical;

6. *Also recognizes* that a multilateral approach on the sharing of the benefits arising from the use of digital sequence information on genetic resources has the potential to meet the criteria identified in paragraph 9;

7. *Further recognizes* that in the course of further analysis, exceptions to paragraph 6 may be identified;

8. *Agrees* to develop a solution for the sharing of benefits arising from the use of digital sequence information on genetic resources;

9. *Also agrees* that a solution for fair and equitable benefit-sharing on digital sequence information on genetic resources should, inter alia⁵:

(a) Be efficient, feasible and practical;

(b) Generate more benefits, including both monetary and non-monetary, than costs;

(c) Be effective;

³ Findable, Accessible, Interoperable, and Reusable, and their respective sub-principles

⁴ Collective benefit, Authority to control, Responsibility, and Ethics, and their respective sub-principles

⁵ CBD/WG2020/REC/3/2

- (d) Provide certainty and legal clarity for providers and users of digital sequence information on genetic resources;
- (e) Not hinder research and innovation;
- (f) Be consistent with open access to data;
- (g) Not be incompatible with international legal obligations;
- (h) Be mutually supportive of other access and benefit-sharing instruments;
- (i) Take into account the rights of indigenous peoples and local communities, including with respect to the traditional knowledge associated with genetic resources that they hold;

10. *Recognizes* that the monetary and non-monetary benefits arising from the use of digital sequence information on genetic resources should, in particular, be used to support conservation and sustainable use of biodiversity and, inter alia, benefit indigenous peoples and local communities;

11. *Agrees* that the approach set out in this decision to fair and equitable benefit-sharing from the use of digital sequence information on genetic resources does not affect existing rights and obligations under the Convention and the Nagoya Protocol, including, as applicable, those related to traditional knowledge and the rights of indigenous peoples and local communities, and is without prejudice to national access and benefit-sharing measures taken under the Convention and the Nagoya Protocol;

12. *Welcomes* section H of the post-2020 global biodiversity framework, the long-term strategic framework for capacity-building and development,⁶ and the strengthening of technical and scientific cooperation in support of the post-2020 global biodiversity framework;⁷

13. *Calls for* specific and targeted capacity-building and development, technology transfer, according to article 16, and technical and scientific cooperation, according to article 18 and, as appropriate, to support developing countries, in particular the least developed countries and small islands developing States among them, and Parties with economies in transition, to generate, access, use digital sequence information on genetic resources for research and innovation, taking into account the key areas for potential capacity building and modalities for capacity building activities as identified by the Ad Hoc Technical Expert Group on digital sequence information on genetic resources;⁸

14. *Encourages* Parties to support the capacity needs and priorities, as appropriate, of indigenous peoples and local communities and relevant stakeholders, as identified by them, emphasizing the capacity needs and priorities of women;

15. *Recalls* the proposed policy options for a solution on benefit-sharing from the use of digital sequence information on genetic resources as contained in the annex to recommendation 5/2 of the Open-ended Working Group on the Post-2020 Global Biodiversity Framework;

16. *Decides* to establish, as part of the post-2020 global biodiversity framework, a global mechanism for benefit-sharing from the use of digital sequence information on genetic resources, including a multilateral fund, without prejudice to existing national legislative arrangements, for sharing the benefits which arise from the use of digital sequence information on genetic resources;

17. *Also decides* to establish a fair, transparent, inclusive, participatory and time-bound process to further develop and operationalize the mechanism, as outlined in paragraphs 18, and 20 to 22 below, to be finalized at the sixteenth meeting of the Conference of the Parties;

⁶ Decision 15/--.

⁷ Decision 15/--.

⁸ CBD/DSI/AHTEG/2020/1/7

18. *Establishes* an ad hoc open-ended working group on the global mechanism for benefit-sharing to undertake further development of the global mechanism, including the elements identified in the annex, and to make recommendations to the Conference of the Parties at its sixteenth meeting;

19. *Further decides* to review the effectiveness of the global mechanism at the eighteenth meeting of the Conference of the Parties, including, inter alia, the criteria laid out in paragraphs 9 and 10;

20. *Invites* Parties, other Governments, indigenous people and local communities and relevant organizations to submit views on the issues set out in the annex to the present decision;

21. *Requests* the Executive Secretary to compile and synthesize the views submitted pursuant to paragraph 20 above and make them available to the ad hoc open-ended working group;

22. *Also requests* the Executive Secretary, subject to the availability of resources, to:

(a) Compile lessons learned from other international funding mechanisms, such as the Benefit-Sharing Fund of the International Treaty on Plant Genetic Resources for Food and Agriculture, the World Health Organization Pandemic Influenza Preparedness Framework, and the Small Grants Programme of the Global Environment Facility;

(b) Commission a study to analyse and model the extent to which a global mechanism for benefit-sharing from the use of digital sequence information on genetic resources, and any other options the ad-hoc open-ended working group may decide, meets the criteria in paragraphs 9 and 10 of this decision;

(c) Commission a study on the options for revenue-generating measures at different points along the value chain (e.g. point of commercialization), the feasibility of their implementation and their costs relative to their potential revenue.

Annex

Issues for further consideration

- (a) Governance of the fund;
- (b) Triggering points for benefit-sharing;
- (c) Contributions to the fund;
- (d) Potential to voluntarily extend the multilateral system to genetic resources or biological diversity;
- (e) Disbursement of monetary benefits, including information on geographical origin as one of the criteria;
- (f) Non-monetary benefit-sharing, including information on geographical origin as one of the criteria;
- (g) Capacity development and technology transfer;
- (h) Monitoring and evaluation and review of effectiveness;
- (i) Adaptability of the mechanism to other resource mobilization instruments or funds
- (j) Interface between national systems and the global mechanism on benefit-sharing;
- (k) Relationship with the Nagoya Protocol;
- (l) Role, rights and interests of indigenous peoples and local communities, including associated traditional knowledge;
- (m) Role and interests of industry and academia;

- (n) Linkages between research and technology and the global mechanism on benefit-sharing;
 - (o) Principles of data governance;
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