



## Convention on Biological Diversity

Distr.  
GENERAL

UNEP/CBD/ICNP/1/2  
2 May 2011

ORIGINAL: ENGLISH

OPEN-ENDED AD HOC INTERGOVERNMENTAL  
COMMITTEE FOR THE NAGOYA PROTOCOL  
ON ACCESS TO GENETIC RESOURCES AND  
THE FAIR AND EQUITABLE SHARING OF  
BENEFITS ARISING FROM THEIR UTILIZATION

First meeting

Montreal, 5-10 June 2011

Item 3 of the provisional agenda\*

### REPORT OF THE EXPERT MEETING ON THE MODALITIES OF OPERATION OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE

#### INTRODUCTION

##### A. *Background*

1. Article 14 of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (the Nagoya Protocol) establishes an Access and Benefit-sharing Clearing-House (ABS Clearing-House) as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention.
2. The ABS Clearing-House is a means for the sharing of information related to access and benefit-sharing and it shall provide access to information made available by each Party relevant to the implementation of the Protocol.
3. The Open-ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol (the Intergovernmental Committee) was established by the Conference of the Parties to the Convention in decision X/1, paragraph 7, in order to undertake preparations for the first meeting of the Conference of the Parties serving as the meeting of the Parties, as set out in paragraph 8 of the same decision.
4. Furthermore, in paragraph 12 and annex II of the same decision, the Conference of the Parties decided that the Intergovernmental Committee will consider the modalities of operation of the ABS Clearing-House, including reports on its activities, at its first meeting, from 6 to 10 June 2011. In addition, Article 14, paragraph 4, of the Nagoya Protocol provides that the first meeting of the Parties will decide on the modalities of operation of the ABS Clearing-House.

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\* UNEP/CBD/ICNP/1/1.

5. In order to assist the Intergovernmental Committee in its consideration of this issue at its first meeting, an expert meeting on the modalities of operation of the ABS Clearing-House was held from 11-14 April 2011, in Montreal.

### **B. Attendance**

6. A maximum of eight experts per region and ten observers were eligible to attend the meeting. In line with usual practice, the experts were selected by the Secretariat of the Convention on Biological Diversity taking into account their expertise, the need to ensure equitable geographical distribution, and with due regard to gender balance. The list of selected experts for the meeting was approved by the Bureau of the Conference of the Parties to the Convention.

7. The meeting was attended by experts nominated by Argentina, Botswana, Brazil, Canada, Costa Rica, Croatia, Cuba, Ethiopia, the European Union, Finland, Georgia, Guatemala, Hungary, India, Japan, Kiribati, Madagascar, Malaysia, Mexico, Morocco, Namibia, Philippines, the Republic of Moldova, Rwanda, Saudi Arabia, Sudan, Thailand, Turkmenistan, Ukraine and the United Kingdom. The experts from China, Colombia, Ecuador, Niger and Tajikistan, who had been selected and invited, could not attend the meeting.

8. Experts from the following organizations participated in the meeting as observers: the Consejo Regional Otomi del Alto Lerma, the Food and Agriculture Organization of the United Nations (FAO), the Foundation for Aboriginal and Islander Research Action (FAIRA), the German Research Foundation (DFG), the Global Environment Facility (GEF), the International Chamber of Commerce (ICC), the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and the Tulalip Tribes. The expert from the Russian Association of Indigenous Peoples of the North (RAIPON) was invited to the meeting but was unable to attend.

9. In addition, a representative from the tenth meeting of the Conference of the Parties Presidency attended as an *ex officio* observer. Two representatives from the Institute of Advanced Studies of the United Nations University participated as resource persons.

### **ITEM 1. OPENING OF THE MEETING**

10. The meeting was opened at 9 a.m. on Monday, 11 April 2011.

11. On behalf of the Executive Secretary, Ms. Valerie Normand, Programme Officer for Access and Benefit-sharing, welcomed the experts to Montreal. She thanked the European Union for providing financial support to convene the meeting. She recalled that the meeting was the first on access and benefit-sharing convened by the Secretariat since the adoption of the Nagoya Protocol on Access and Benefit-sharing. She emphasised that the negotiations were now over and that a new phase of work had started. Ms. Normand also reminded participants that Article 14 of the Nagoya Protocol provides that the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol will decide on the modalities of operation of the ABS Clearing-House and that the Intergovernmental Committee for the Nagoya Protocol is meant to discuss these modalities at its first meeting. This expert meeting was therefore a great opportunity to provide guidance to the Intergovernmental Committee for its work on this issue. Ms. Normand noted that the report of the meeting will be made available for the consideration of the Intergovernmental Committee at its first meeting. Finally, she emphasized that the Access and Benefit-sharing Clearing-House was very important for the effective implementation of the Protocol and reminded the experts that their role was to provide technical advice on the matter.

12. A representative of the Biosafety Division of the Secretariat of the Convention on Biological Diversity gave a presentation on the implementation of the Biosafety Clearing-House established under the Cartagena Protocol on Biosafety. The presentation highlighted the main functions and features of the Biosafety Clearing-House, as well as possible interlinkages to be made for the establishment of the

Access and Benefit-sharing Clearing-House. Lessons learned from the Biosafety Clearing-House's seven years of operation and the insights they may provide for the development and operation of the ABS Clearing-House were shared. Some suggestions for priority information to be included and shared under the Access and Benefit-sharing Clearing-House were made. The presentation was made available on the Secretariat's website at <http://www.cbd.int/doc/?meeting=EMABSCHM-01>.<sup>1</sup>

13. The Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture (International Treaty) kindly provided a video on the information technology tools in support of the Multilateral System of Access and Benefit-sharing. The video provided some background information on how the Multilateral System of Access and Benefit-sharing was established and detailed explanations on how it is being implemented under the International Treaty. The main operational systems and mechanisms, as well as the reporting requirements of Parties were presented. Furthermore, the video provided information on different tools developed by the Secretariat of the International Treaty in order to facilitate the operations of the system and a demonstration on how to use its web-based portal. The video was made available on the Secretariat's website at <http://www.cbd.int/doc/?meeting=EMABSCHM-01>.<sup>2</sup>

14. Mr. C. Achalender Reddy, the expert from the Government of India, presented the implementation of access and benefit-sharing in India. In his presentation, he explained the rationale and main objectives of the Biological Diversity Act (2002) and the notified Rules under it (2004). He provided the main features of this legislation, such as its provisions on mutually agreed terms, recognition of associated traditional knowledge of indigenous and local communities and benefit-sharing, and described the institutional structures established to assist in its implementation. Furthermore, Mr. Reddy explained how the access and benefit-sharing component of the Act has been operationalized through the use of Application Forms and Agreement Formats and how these have led to the successful negotiations of agreements related to access and benefit-sharing. Mr. Reddy explained that royalties have been generated through the Act and that these will plough back to benefit claimers/conservers/growers of biological resources. The experts were invited to visit the following website for more details on the Biological Diversity Act: [www.nbaindia.org](http://www.nbaindia.org). Mr. Reddy's presentation was made available on the Secretariat's website at <http://www.cbd.int/doc/?meeting=EMABSCHM-01>.<sup>3</sup>

## ITEM 2. ORGANIZATIONAL MATTERS

### 2.1. Officers

15. The participants elected Mr. Christopher Lyal (United Kingdom) and Mr. C. Achalender Reddy (India) as co-chairs of the meeting.

### 2.2. Adoption of the agenda

16. The Group adopted the following agenda on the basis of the provisional agenda (UNEP/CBD/ABS/EM-CH/1/1):

1. Opening of the meeting.
2. Organizational matters.

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<sup>1</sup> See "The Biosafety Clearing-House of the Cartagena Protocol on Biosafety: Sharing Information on Living Modified Organisms by the Biosafety Division of the Secretariat of the Convention on Biological Diversity" (click the **Other** tab).

<sup>2</sup> See "Information Technology Tools in Support of the Multi-Lateral System of Access and Benefit-sharing by the Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture" (click the **Other** tab).

<sup>3</sup> See "Implementation of the Access and Benefit-sharing Mechanism in India by the Expert from the Government of India" (click the **Other** tab).

3. Role of the Access and Benefit-sharing Clearing-House in implementing the Nagoya Protocol.
4. Opportunities for collaboration with existing systems.
5. Considerations for the establishment of the Access and Benefit-sharing Clearing-House.
6. Priorities for the pilot phase of the Access and Benefit-sharing Clearing-House.
7. Adoption of the report.
8. Closure of the meeting.

### ***2.3. Organization of work***

17. In considering the issues, the Group had before it a document on issues for consideration in the establishment of the Access and Benefit-sharing Clearing-House (UNEP/CBD/ABS/EM-CH/1/2) and a compilation of submissions provided by Parties, international organizations, indigenous and local community organizations and relevant stakeholders on the modalities of operation of the Access and Benefit-sharing Clearing-House (UNEP/CBD/ABS/EM-CH/1/3 and UNEP/CBD/ABS/EM-CH/1/3/Add.1), as well as an information document kindly provided by the CITES Secretariat describing CITES electronic permits and certificates (UNEP/CBD/ABS/EM-CH/INF/1).

### **ITEM 3. ROLE OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE IN IMPLEMENTING THE NAGOYA PROTOCOL**

18. On 11 April, the representatives from the Institute of Advanced Studies of the United Nations University presented an overview of document UNEP/CBD/ABS/EM-CH/1/2 to be used as the basis for discussions by the expert meeting. This presentation was made available on the Secretariat's website at <http://www.cbd.int/doc/?meeting=EMABSCHM-01>.<sup>4</sup>

19. In addressing this agenda item, the experts proceeded to examine the information to be made available under the Access and Benefit-sharing Clearing-House, including information related to the internationally recognised certificate of compliance and considerations with regards to the confidentiality of information.

20. The outcome of deliberations is contained in the annex to the present report.

### **ITEM 4. OPPORTUNITIES FOR COLLABORATION WITH EXISTING SYSTEMS**

21. On 12 April, the Group proceeded to consider possible opportunities for collaboration with existing initiatives for the exchange of information relating to access and benefit-sharing under the Access and Benefit-sharing Clearing-House.

22. The outcome of deliberations is contained in the annex to the present report.

### **ITEM 5. CONSIDERATIONS FOR THE ESTABLISHMENT OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE**

23. On 12 April, in addressing this item, the Group examined capacity-building needs and financial requirements of developing country Parties, Parties with economies in transition and indigenous and local communities in the establishment of the Access and Benefit-sharing Clearing-House, and how to enable their active participation during its development and operational phase.

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<sup>4</sup> Ibid.

24. The experts also considered issues related to the development of common formats and controlled vocabularies to be used in the Access and Benefit-sharing Clearing-House, as well as the unique identifier to be contained on the internationally recognized certificate of compliance.

25. The outcome of deliberations is contained in the annex to the present report.

**ITEM 6. PRIORITIES FOR A PILOT PHASE OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE**

26. On 13 April, the Group considered priorities for a pilot phase of the Access and Benefit-sharing Clearing-House. The outcome of deliberations is contained in the annex to the present report.

**ITEM 7. ADOPTION OF THE REPORT**

27. The present report was adopted at the final session of the meeting.

**ITEM 8. CLOSURE OF THE MEETING**

28. Participants expressed their appreciation to the European Commission for providing financial support for the meeting.

29. Following the customary exchange of courtesies, the meeting was closed at 1:10 p.m. on Thursday, 14 April 2011.

*Annex***OUTCOME OF THE EXPERT MEETING ON THE MODALITIES OF OPERATION OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE****I. ROLE OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE IN IMPLEMENTING THE NAGOYA PROTOCOL**

1. The expert meeting considered the objective, role and information-exchange requirements of the ABS Clearing-House as determined by the Nagoya Protocol.

2. The experts noted that the ABS Clearing-House is established as part of the clearing-house mechanism (CHM) of the Convention, and that it would therefore be designed to reflect its key characteristics in accordance with guidance from the Parties to the Convention.

3. The experts also noted the successful experience of the Biosafety Clearing-House established under the Cartagena Protocol on Biosafety, and identified many commonalities that could facilitate the rapid establishment of a pilot phase of the ABS Clearing-House.

4. When considering the role of the ABS Clearing-House in implementing the Protocol, the experts considered the types of information that Parties will be expected to provide, update and process through the Clearing-House. This included those that must be made available under Article 14, paragraph 2, namely:

(a) Legislative, administrative and policy measures on access and benefit-sharing;

(b) Information on the national focal point and competent national authority or authorities;  
and

(c) Permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms.

5. Additional categories of information to support implementation of the Protocol were also considered in accordance with Article 14, paragraph 3, including:

(a) Relevant competent authorities of indigenous and local communities, and information as so decided;

(b) Model contractual clauses;

(c) Methods and tools developed to monitor genetic resources; and

(d) Codes of conduct and best practices.

6. The expert meeting also considered internationally recognized certificates of compliance, and issues related to monitoring and the utilization of genetic resources in accordance with Article 17.2.

7. When considering the above-mentioned issues, several points were raised that may require further consideration by the ICNP in order to reach a common understanding regarding the requirements of the Protocol. These included the following:

(a) *Notification of permits or their equivalent:* Differences in understanding were identified with respect to the requirements under the Protocol to make available permits or their equivalent to the ABS Clearing-House. For example, Article 6, paragraph 3(e), requires that Parties “notify” the ABS Clearing-House that a permit or its equivalent has been issued; Article 14, paragraph 2(c), requires that each Party shall make available information that “shall include...Permits or their equivalent”; and Article

17, paragraph 2, establishes that a permit or its equivalent made available to the ABS Clearing-House constitutes an internationally recognized certificate of compliance while Article 17, paragraph 4, sets out the minimum information required to constitute the certificate. Whereas it was generally recognized that the permits themselves should be made available to the Clearing-House under Article 14, a view was expressed that this could be understood to mean that only summary information on the permits issued would need to be made available (e.g., “75 permits issued for non-commercial research”) unless there was a need for an internationally recognized certificate for compliance under Article 17 where the full permit is required.

(b) *Updating Internationally Recognized Certificates of Compliance:* The experts also considered the need to ensure that the modalities of the ABS Clearing-House provided the flexibility to amend or update information contained within, or related to, a permit. Circumstances warranting updating a permit may include the subsequent taxonomic identification of new species collected under the permit or the inclusion of information that would enhance legal certainty. This might include evidence of compliance with permit conditions and/or with Mutually Agreed Terms.

(c) *Third party transfer:*

- (i) In considering the International Certificate of Compliance under Article 17, paragraph 3, the experts noted that third party transfers would generally be addressed in the Mutually Agreed Terms, and that there was no requirement to make such information available to the ABS Clearing-House.
- (ii) In this context, experts noted that when permits covered the issue of third party transfer, Parties may wish to consider the value of making this information available as part of the information disclosed on the International Certificate so as to enhance legal certainty.

(d) *Tracking the utilization of genetic resources:*

- (i) The experts noted that a common understanding needs to be established on the extent to which the intent of the Protocol is to track access, use and/or transfers of genetic resources.
- (ii) For access of specimens for non-commercial research where Parties have established simplified procedures in accordance with Article 8, paragraph (a), of the Nagoya Protocol, they may wish to share these simplified procedures through the ABS Clearing House.

(e) *Identification of subject matter or genetic resource covered by the certificate:* As noted above, Article 17, paragraph 4, lists a set of minimum information required for an internationally recognized certificate of compliance (when the information is not confidential). The certificate may, in principle, be updated through appropriate means, for example when the identity of the genetic resource is determined. There are a number of ways in which this identity may be recorded, for example as a taxon name of a species or higher taxonomic rank, such as family or Kingdom. However, due to changes in taxonomic nomenclature resulting from scientific research, or following changes in identification, these names may not be static and there is a risk that the name on the certificate will become inaccurate for the resource and reduce its evidentiary value. One means of addressing this problem is to link the identity on the certificate, in addition to a taxonomic name, to a voucher specimen held in an appropriate facility and given its own unique identifier. The potential of this should be investigated.

(f) *Confidential information:*

- (i) Experts reflected on whether and how the Clearing-House should deal with confidential information. In accordance with Article 14, paragraph 2, information would be made available to the ABS Clearing-House without prejudice to the protection of confidential information. The meeting noted that the Protocol does not require Parties to share confidential information with the ABS Clearing-House.
- (ii) Article 14, paragraph 2 specifies that the provision of information shall be “without prejudice to the protection of confidential information” and Article 17, paragraph 4, lists information that shall be included in the internationally recognized certificate of compliance “when it is not confidential”. The experts noted that in order to support the functionality of the Protocol, as much as possible of the minimum information that should be contained in the internationally recognized certificate should be made available.
- (iii) Experts were generally of the view that no confidential information should be made available to the ABS Clearing-House, which is by definition primarily an information-sharing mechanism. However, a possibility was raised that the Clearing-House could develop the ability to receive confidential information and keep it confidential until confidentiality was no longer required.

## II. OPPORTUNITIES FOR COLLABORATING WITH EXISTING SYSTEMS

8. Opportunities for collaboration with existing systems were considered by the expert group. The meeting considered various international databases to examine future partnership opportunities, including the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)’s Multilateral System for Access and Benefit-sharing; databases being maintained by the World Intellectual Property Organization (WIPO); developments in e-permitting and certification under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); and the United Nations University (UNU) “Bioprospector” database.

9. The experts highlighted the need for further collaboration with the ITPGRFA regarding plant genetic resources for food and agriculture included in the Multilateral System that could be used for purposes other than those covered by the Treaty, such as industrial and pharmaceutical use.

10. It was also noted that Article 17 of the International Treaty provides that in developing the Treaty’s Global Information System on Plant Genetic Resources, cooperation will be sought with the clearing-house mechanism of the Convention, and therefore underscored the further need that the ITPGRFA Secretariat closely collaborate with the Secretariat of the Convention on Biological Diversity in the development of that System.

11. The experts considered that Parties may wish to monitor the development of electronic permitting solutions under CITES, keeping in mind that CITES and the Nagoya Protocol are two very different systems and that the scope of the Nagoya Protocol is broader.

12. The experts noted that it would be easy and valuable to link to existing databases under WIPO, such as the database of biodiversity-related ABS arrangements. Additional opportunities for collaboration could also be considered as they arise.

13. In addition to the specific partner opportunities mentioned above, it was noted that other potential information partnerships for the ABS Clearing-House could also include the following:

- (a) Taxonomic databases (such as the Global Biodiversity Information Facility, GBIF) and other biological information facilities;
- (b) Legal information databases;
- (c) Systems that are already making use of Material Transfer Agreements in the exchange of biological resources, such as microbial culture collections;
- (d) Gene banks and other networks for the exchange of biological material; and
- (e) Patent data portals.

14. The experts considered that it may be useful to compile a list of possible partners as a basis to review the benefits of partnerships with these during the pilot phase of the ABS Clearing-House. Developments under international information-exchange mechanisms could also be followed to determine future linkage opportunities.

15. The experts also considered the ABS Measures database that is maintained by the Convention on Biological Diversity, which provides a matrix overview of the main ABS elements for each of the measures in the database. The experts concluded that this matrix provided a valuable means to review the information in the database.

### **III. CONSIDERATIONS FOR THE ESTABLISHMENT OF THE ABS CLEARING-HOUSE**

16. The experts considered lessons learned from the establishment of other information-exchange mechanisms, in particular the Biosafety Clearing-House (BCH), and discussed the implications of these experiences in relation to the architecture and design of the ABS Clearing-House.

17. The experts recognized that the BCH provided a working, functional model that could be adapted to meet the needs of the ABS Clearing-House. Experience with the BCH had indicated that most governments preferred to submit information to an Internet-based centralized portal (rather than through more complex interoperable mechanisms). A small number of governments made use of a non-Internet based mechanism of information exchange.

#### ***Submission of information***

18. The expert meeting considered the additional roles and responsibilities that would arise for national governments in order to allow easy submission of information to the ABS Clearing-House. These would include:

- (a) Communicating with the CBD Secretariat on issues related to the ABS Clearing-House;
- (b) Making information available to the ABS Clearing-House; and
- (c) Facilitating networking between competent national authorities and other stakeholders that will make information available to the ABS Clearing-House.

19. Some experts considered that these responsibilities would be an expansion of the role of the ABS National Focal Point designated in accordance with Article 13, paragraph 1. Others suggested that a dedicated ABS Clearing-House Contact could be appointed who has been authorized to transmit information to the ABS Clearing-House.

20. A number of experts considered that the ABS Clearing-House should also provide a mechanism that would enable multiple competent national authorities to make permits available to the ABS Clearing-House, where appropriate and authorized to do so by their ABS National Focal Point.

21. The experts discussed the need to validate information made available to the ABS Clearing-House to ensure its authenticity. A variety of views were expressed with respect to the entities that could be responsible for this.

### ***Language of the pilot phase***

22. The experts discussed the need for the pilot phase of the ABS Clearing-House to be amenable to rapid development and flexible enough to respond to feedback from its users. Given the high cost of translation, the experts considered that the pilot phase could initially be developed in English, this being the language most easily accessible at international level for those countries which did not operate in one of the six official languages of the United Nations.

### ***Data management***

23. The meeting considered that in order to allow for proper data browsing and querying of the database, all data submitted to the ABS Clearing-House should share a common format for reporting information, and make use of appropriate controlled vocabularies to index the information available.

24. The expert meeting considered the possible structure of four common formats in detail, and provided comments on their structure and useful controlled vocabulary that could be used to describe their content. These included the common formats for reporting information relating to ABS national focal points; competent national authorities; legislative, administrative and policy measures on access and benefit-sharing; and permits or their equivalent constituting an internationally recognized certificate of compliance.

25. The expert meeting considered that controlled vocabularies should be drawn from existing negotiated texts as far as possible, such as the text of the Nagoya Protocol itself, and terminology from the Bonn Guidelines.

### ***Common Format for reporting National Focal Points (NFPs)***

26. The experts considered that the common format for identifying national focal points used in the Biosafety Clearing-House was also generally applicable for registering the Nagoya Protocol Focal Point on the ABS Clearing-House.

### ***Common Format for reporting Competent National Authorities (CNAs)***

27. The experts considered that the jurisdiction and subject matter responsibilities of the competent national authorities should be identified on the Clearing-House.

28. The expert group discussed responsibilities likely to be assumed by CNAs that might need to be described in the ABS Clearing-House, and key terms for categories of genetic resources for which they are likely to be responsible in order to determine a controlled vocabulary to describe the records, including, for example, jurisdiction over geographical areas, taxa, and/or specific genetic resources.

29. The expert group discussed the possible content of a checklist of administrative functions and aspects of genetic resources covered as part of the common format to describe CNAs that would aid users in locating CNAs established by their governments to manage different tasks within their ABS systems.

30. The expert group considered that an indicative list of descriptive terms could be drawn from the language of the Nagoya Protocol and national experiences.

31. It was suggested that Parties could be invited to submit narrative descriptions of their existing ABS structures that describe the roles and responsibilities of CNAs, in order to assist the Secretariat in extracting a descriptive list of terms being used in practice.

***Common format for reporting legislative, administrative and policy measures on access and benefit-sharing***

32. In considering the common format for legislative, administrative and policy measures on ABS, the experts considered the common format for reporting legislative information to the Biosafety Clearing-House, as well as the Convention on Biological Diversity's ABS Measures database.
33. The experts noted that the summary matrix used to display information in the ABS Measures database was very useful. It could be expanded to also include checkpoints, and obligations of parties as users of genetic resources.
34. The experts considered that the items in the preceding two paragraphs could be used by the Secretariat as a basis for the development of a common format and descriptive vocabulary for reporting information to the ABS Clearing-House.

***Common Format for the Internationally Recognized Certificate of Compliance***

35. The experts discussed the desirable content and form of a common format for permits or their equivalent. This included the importance of the minimum content required by Article 17, paragraph 4, to be contained in the internationally recognized certificate of compliance, and related information, such as third party transfer provisions and change of use, as it was agreed that these required further exploration.
36. For Article 17, paragraph 4(a), the "issuing authority", it was suggested that contact details of the authority would be submitted.
37. For Article 17, paragraph 4(b), the "date of issuance", it was suggested that the date of issuance of the permit be submitted.
38. For Article 17, paragraph 4(c), "the provider", it was suggested that details of the entity that holds the right to provide the genetic resources be submitted.
39. There was significant discussion regarding Article 17, paragraph 4(d), the "unique identifier of the certificate", since the format of such an identifier has not previously been determined.
40. Three options were considered in this context, (i) unique identifiers could be issued by governments at the time of issuing the permit, in accordance with guidelines developed for this purpose, (ii) a unique identifier could be issued by the ABS Clearing-House itself at the time of submission, (iii) a unique identifier could be generated that used a combination of a government-issued identifier and a reference code issued by the ABS Clearing-House at the time the information is made available to it.
41. For Article 17, paragraph 4(e), "the person or entity to whom prior informed consent was granted", contact details could be submitted.
42. For Article 17, paragraph 4(f) "subject matter or genetic resources covered by the certificate", experts considered that this could include biota at any taxonomic rank, which may carry a taxonomic name. The possibility exists to use external sources to supply such agreed names. It might also include a locality of collection of the material. It might also be possible to identify the genetic resource through reference to a voucher specimen or field notes held in an identified archive or collection.
43. For Article 17, paragraph 4(g), "confirmation that mutually agreed terms were established", minimum information could be a checkbox. Optional additional information could include who agreed to the terms, when they were agreed, or the full Mutually Agreed Terms agreed between the contracting parties.
44. For Article 17, paragraph 4(h), "confirmation that prior informed consent was obtained", minimum information could be a checkbox. There could also be an option to report the purpose, to indicate what utilization the prior informed consent was for.

45. For Article 17, paragraph 4(i), “commercial and/or non-commercial use”, this could be submitted via a checkbox; however, the experts noted that the terms “commercial” and “non-commercial use” have not been defined and further qualifiers may be useful, such as the purpose for which PIC was granted.

46. Regarding optional additional information that could be reported, the experts agreed that an important field to include on the common format for making certificate information available would contain conditions for third party transfer.

### ***Reporting***

47. The expert meeting considered possible metrics that could be used to assist in reporting on the activities of the Clearing-House in accordance with Article 14.4.

48. Reporting requirements that were discussed included:

- (a) The number, regional distribution and type of records made available through the ABS Clearing-House;
- (b) The number of internationally recognized certificates issued;
- (c) The number of visitors accessing the ABS Clearing-House to access information, the types of information being accessed, and the time spent looking at different types of information;
- (d) The availability of information in six official United Nations languages;
- (e) Reports of arrangements between the ABS Clearing-House and other institutions for the exchange of relevant information;
- (f) User surveys or other feedback on the operation of the ABS Clearing-House;
- (g) Measurement of external use of the ABS Clearing-House, for example links being made to the website, social aggregating analysis tools, etc.
- (h) Operational costs.

## **IV. PRELIMINARY ASSESSMENT OF NEEDS OF PARTIES AND INDIGENOUS AND LOCAL COMMUNITIES**

49. The experts discussed key capacity-building needs for developing country Parties and countries with economies in transition as well as holders of traditional knowledge.

50. The following capacity-building needs relating to the operation of the ABS Clearing-House were identified:

- (a) The capacity to collect and manage data at the national level (including the need for Parties to be able to provide summary information in the common formats for reporting information in an official language of the United Nations to enable registration of such information with the ABS Clearing-House);
- (b) Strengthening of core human resources at the national level;
- (c) Establishing and maintaining appropriate infrastructure to share and access information at national, regional and international levels;
- (d) Determining the relationship between indigenous competent authorities and the competent national authorities;

(e) Developing tools to facilitate access to and use of data, such as flow charts explaining the operation of ABS measures, the operation of ABS Clearing-House, and other toolkits to assist users.

51. In addition, the experts considered that it could be valuable to make information on available capacity-building opportunities and resources relevant to implementation of the Protocol (e.g., available funding, training, etc.) accessible through the ABS Clearing-House in its pilot phase.

52. The meeting also discussed the value of the GEF-supported capacity-building programmes established to support the implementation of the Biosafety Clearing-House under the Cartagena Protocol on Biosafety, and considered that a similar programme would be valuable to build capacity to access and use the ABS Clearing-House.

53. The experts noted that there are cultural and technical barriers for many indigenous and local communities in accessing information such as that included in the ABS Clearing-House, including internet-based information, and considered that an ILC focal point may be able to facilitate communication in this regard.

## **V. RESOURCE REQUIREMENTS AND TENTATIVE TIMELINE**

54. The expert meeting considered that an estimate of the funding and resource requirements needed to implement activities during the pilot phase, as well as a tentative timeline for implementing the activities outlined in the outcomes of this meeting should be prepared.

## **VI. PRIORITIES FOR A PILOT PHASE OF THE ABS CLEARING-HOUSE**

The Expert meeting transmits to the Intergovernmental Committee the following outcomes of its deliberations, for its further consideration:

### ***Phased development***

55. The ABS Clearing-House should be implemented in a phased manner, building up its functions and activities in response to clear and identified demand, incorporating ongoing feedback from users, and in line with available resources.

56. The objectives of the pilot phase would be to establish an information-sharing mechanism that is simple, efficient, user-friendly and functional; provides an opportunity to elicit feedback on the development of the ABS Clearing-House; and prepares for the later inclusion of additional information that will be relevant to implementation of the Protocol.

57. It is anticipated that the ABS Clearing-House would operate in all six official United Nations languages. However, during the pilot phase, availability of resources may result in practical restrictions on the languages used for development, in which case English should be adopted.

### ***Information to be incorporated on a priority basis***

58. During the pilot phase, the following types of information have been identified as critical priorities, in accordance with Article 14.2:

- (a) Legislative, administrative and policy measures on access and benefit-sharing;
- (b) Information on the national focal point and competent national authority or authorities;  
and
- (c) Permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms.

59. Other information that has been identified as particularly valuable to make available during the pilot phase through the ABS Clearing-House includes:

- (a) Model contractual clauses; as well as methods and tools developed to monitor genetic resources; and codes of conduct and best practices and/or standards, addressed in Articles 19 and 20 of the Protocol;
- (b) Explanatory information about the legislative measures, such as explanatory memoranda, or flow charts that describe the national ABS processes;
- (c) Provision for information on the contribution made by ABS measures to sustainable use and conservation of biodiversity;
- (d) Information currently available in the Convention on Biological Diversity's ABS Measures Database;
- (e) Information about any checkpoints established under Article 17 of the Protocol;
- (f) Capacity-building measures and activities;
- (g) Information regarding relevant authorities to grant access to traditional knowledge associated with genetic resources.

#### *Submission of information*

60. In order to allow easy submission of information to the ABS Clearing-House, a number of roles and responsibilities were identified, which could include:

- (a) Communicating with the Secretariat of the Convention on Biological Diversity on issues related to the ABS Clearing-House;
- (b) Making information available to the ABS Clearing-House; and
- (c) Facilitating networking and the building of capacity between competent national authorities, indigenous and local communities and other stakeholders that would make information available to the ABS Clearing-House.

61. Duties of the ABS Focal Point designated in accordance with Article 13, paragraph 1, could be expanded to incorporate these responsibilities, or a dedicated ABS Clearing-House contact could be appointed.

62. A mechanism could be considered that would enable multiple competent national authorities to make information on permits issued available to the Clearing-House, where appropriate and authorized to do so by their ABS National Focal Point.

63. Parties should consider the establishment of an indigenous and local community focal point for the ABS Clearing-House to facilitate communication with indigenous and local communities.

#### *Information management*

64. The ABS Clearing-House should make use of an Internet-based centralized portal to provide and access information.

65. The ABS Clearing-House should make use of common formats to report information and controlled vocabularies to facilitate entry and retrieval of the information being reported.

66. Primary data may be reported in the original language (e.g., permits and other useful information), but metadata (i.e., information about the record) should be provided in the official language(s) used in the Clearing-House.

67. While the ABS Clearing-House should allow for the possibility to enter information in multiple languages (for example, in one or more of the six United Nations official languages, as well as the national language(s) of the reporting country), the pilot phase should be initially developed in English.

68. The ABS Clearing-House should allow Parties to amend or update information contained in or related to a permit or its equivalent if necessary to reflect new developments or circumstances relating to the utilization of the genetic resource. In such instances, the original permit should be retained in archived form.

69. A mechanism for non-electronic or non-Internet information-sharing should be provided for those countries that indicate they need to access such a mechanism, such as the non-Internet mechanism currently used by the Biosafety Clearing-House.

70. When making permits available to the ABS Clearing-House to constitute a Certificate of Compliance, Parties should be encouraged to include information on third party transfer arrangements where it is available to be incorporated into the Certificate.

#### *Networking with existing mechanisms*

71. The development of the pilot phase should include investigation of partnership opportunities with other data providers. These could include the International Treaty on Plant Genetic Resources for Food and Agriculture, and taxonomic databases such as the Catalogue of Life and the Global Biodiversity Information Facility. In addition, enhancing collaboration with the World Intellectual Property Organization could be considered.

72. To support implementation of the Nagoya Protocol, the ABS Clearing-House could also provide access to other information resources, such as systems already making use of Material Transfer Agreements to exchange biological resources (e.g., microbial culture collections), gene banks, legal information databases, and other aggregators of relevant information such as the UNU's Bioprospecting Information Resource databases. A list of such websites should be prepared to allow evaluation of their utility during the pilot phase.

#### *Capacity-building*

73. Parties should be encouraged to identify capacity-building needs to implement the ABS Clearing-House.

74. Taking into account the overall capacity-building needs to support the implementation of the Protocol, Parties should consider inviting donor agencies to fund capacity-building initiatives to enable Parties, indigenous and local communities and relevant stakeholders to effectively access and use the ABS Clearing-House.

75. Parties should consider identifying resources under national allocations from the GEF, or other funding agencies, for the development and implementation of the ABS Clearing-House with a view to address capacity-building needs of Parties, indigenous and local communities and relevant stakeholders.

76. Information on available capacity-building opportunities and resources (e.g., available funding, training, tools that could make information on the Clearing-House more accessible for users, etc.) should be made available through the ABS Clearing-House in its pilot phase.

77. Information supporting the implementation of the Protocol could also include best practices on the involvement of Indigenous and Local Communities in implementing the Protocol (e.g., South-South models, training, etc.).

### ***Reporting requirements***

78. To assist in preparing reports on the activities of the ABS Clearing-House for review by the Parties in accordance with Article 14 paragraph 4, the following metrics are suggested:

- (a) The number, regional distribution and type of records made available through the ABS Clearing-House;
- (b) The number of internationally recognized certificates issued;
- (c) The number of visitors accessing the ABS Clearing-House to access information, the types of information being accessed, and the time spent looking at different types of information;
- (d) The availability of information in six official United Nations languages;
- (e) Reports of arrangements between the ABS Clearing-House and other institutions for the exchange of relevant data;
- (f) User surveys or other feedback on the operation of the ABS Clearing-House;
- (g) Measurement of external use of the ABS Clearing-House, for example links being made to the website, social aggregating analysis tools, etc.;
- (h) Operational costs, including funding and other resource requirements.

### ***Resource requirements and tentative timeline***

79. The pilot phase of the ABS Clearing-House should be initiated as soon as possible after the first meeting of the Intergovernmental Committee, and continue until the modalities of operation are adopted by the COP/MOP. The Secretariat should prepare an estimate of the funding and resource requirements needed to initiate the pilot phase of the ABS Clearing-House and a tentative timeline for its implementation for consideration by the first meeting of the Intergovernmental Committee.

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