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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

Third meeting

Pyeongchang, Republic of Korea, 24-28 February 2014

**SUMMARY OF OUTCOMES OF THE MEETING OF THE INFORMAL ADVISORY
COMMITTEE TO THE PILOT PHASE 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 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 on Biological Diversity (CBD).

2. In accordance with recommendation 1/1 of the Ad Hoc Open-ended Intergovernmental Committee for the Nagoya Protocol (the Intergovernmental Committee), the Executive Secretary is currently implementing the pilot phase of the ABS Clearing-House based on the guidance set out in the annex to recommendation 1/1 and in recommendation 2/4. In addition, the eleventh meeting of the Conference of the Parties (COP) to the Convention endorsed an indicative work plan and timeline for activities to take place until the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP), as contained in document UNEP/CBD/COP/11/11 (decision XI/1 C, paragraph 2).

3. In paragraph 1 of decision XI/1 C, the Conference of the Parties established an informal advisory committee (IAC) to assist the Executive Secretary with the implementation of the pilot phase of the ABS Clearing-House and to provide technical guidance with respect to the resolution of technical issues arising from the ongoing development of the pilot phase until the first meeting of the Parties to the Protocol. The decision provided that the IAC should be regionally balanced and composed of fifteen experts selected on the basis of nominations provided by Parties.

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4. In paragraph 3 of this decision, the Conference of the Parties decided that the IAC would hold one meeting, subject to the availability of financial resources, and informal online discussions, as needed, and report on the outcomes of its work to the third meeting of the Intergovernmental Committee.

5. Pursuant to the above decision, and thanks to the generous financial support of the European Union, the meeting of the IAC was held in Montreal, from 2 to 4 October 2013.

B. Attendance

6. By notification 2013-029 (Ref. SCBD/ABS/SBG/jh/81738) of 3 May 2013, Parties were invited to nominate one expert each. From the nominations received, fifteen experts were selected by the Executive Secretary taking into account their expertise, the need to ensure equitable geographical distribution and with due regard to gender balance.

7. The meeting was attended by experts from Belarus, Brazil, China, Croatia, the European Union, India, Madagascar, Mexico, Morocco, South Africa, Switzerland and the United Kingdom of Great Britain and Northern Ireland. The experts from Azerbaijan, Guatemala and Iran, who had been selected and invited, were unable to attend the meeting.

8. A representative from the United Nations University Institute of Advanced Studies and a representative from the International Treaty on Plant Genetic Resources for Food and Agriculture participated as resource persons.

ITEM 1. OPENING OF THE MEETING

9. The meeting was opened at 9 a.m. on Wednesday, 2 October 2013, by Mr. Olivier Jalbert, Deputy Executive Secretary of the Convention.

10. Mr. Jalbert welcomed the experts to the Secretariat and thanked the European Union for providing financial support to convene the meeting. He noted the importance of the ABS Clearing-House as an essential component in ensuring that the Protocol was fully operational and effectively implemented. He emphasized that the purpose of the meeting was not to renegotiate the Protocol but rather to assess the progress made to date and to provide technical advice on priorities for the future development of the pilot phase of the ABS Clearing-House. He stated that momentum was building to bring the Protocol into force in time to hold the first meeting of the Parties to the Nagoya Protocol in conjunction with the twelfth meeting of the Conference of the Parties to the Convention on Biological Diversity in October 2014 in the Republic of Korea, as the Protocol has received half of the 50 ratifications required for its entry into force.

ITEM 2. ORGANIZATIONAL MATTERS

11. The participants elected Mr. Christopher Lyal (United Kingdom) as Chair of the meeting.

12. The group adopted the following agenda on the basis of the provisional agenda (UNEP/CBD/ABS/IAC-CH/1/1) prepared by the Secretariat:

1. Opening of the meeting.
2. Organizational matters.
3. Report on progress in the implementation of the pilot phase of the Access and Benefit-sharing Clearing-House.

4. Priorities for future development of the pilot phase of the Access and Benefit-sharing Clearing-House until the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.
 5. Other matters.
 6. Adoption of the report.
 7. Closure of the meeting.
13. The meeting agreed on the organization of its work as proposed in annex II to the annotations to the provisional agenda (UNEP/CBD/ABS/IAC-CH /1/1/Add.1).

ITEM 3. REPORT ON PROGRESS IN THE IMPLEMENTATION OF THE PILOT PHASE OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE

14. Under this item, the IAC was invited to assess progress made in the implementation of the pilot phase of the ABS Clearing-House and to provide technical guidance to the Executive Secretary with respect to the resolution of technical issues arising from the ongoing development of the pilot phase, in accordance with paragraph 1 of decision XI/1 C.
15. The Chair informed the experts that the Secretariat would take the report into consideration when further implementing the pilot phase. In addition, he highlighted that the role of the IAC was to provide guidance to the Secretariat until the first meeting of the Parties to the Protocol, and he recalled the work plan and timeline for activities to take place until the first meeting of the Parties to the Protocol which was endorsed by the Conference of the Parties at its eleventh meeting and is contained in document UNEP/CBD/COP/11/11. Following the Chair's introduction of this item, the Secretariat was invited to present progress made on the implementation of the pilot phase of the ABS-Clearing House.
16. Mr. Giovanni Ferraiolo, CBD Programme Officer, delivered a presentation on progress made on the implementation of the pilot phase. Following the presentation, the experts reviewed section II of document UNEP/CBD/ABS/IAC-CH/1/2.

A. The ABS Clearing-House website

17. Experts expressed their appreciation for the user-friendly user interface for the website. They noted that country profiles are important and should be made more prominent. They discussed the importance of the availability of information in different languages and the role of controlled vocabularies. They agreed, however, that using automatic translation facilities, e.g. Google translate, in the ABS Clearing-House would not be appropriate. Experts acknowledged the facility offered in the ABS Clearing-House for submitting information and linking to other resources in languages other than the official United Nations languages.
18. They discussed the importance of capacity-building for users of the ABS Clearing-House, including the possibility of developing best practice guides and use cases.

B. Registering records in the ABS Clearing-House

19. The experts agreed that metadata about the record, including status and who published a record, should be publicly available and that a clear distinction should be made between records that have been validated by governments and records that have been made available by others. It was suggested that this could be achieved through different means including the way in which search results are displayed as well as in the individual records themselves.

C. *Nomination and role of the national focal point, clearing authority and national authorized users*

20. Experts discussed the advantages and disadvantages of having one single person responsible for authorizing the publication of national records in the ABS Clearing-House. In response to these discussions, the Secretariat explained that countries would be given a private work area where different national authorized users could prepare draft records before their publication. In view of this, experts agreed on having a single entry point for publishing records during the pilot phase. The Secretariat explained that when a national authorized user has finalized introducing the information in the common format, the person responsible for publishing the ABS Clearing-House records will receive an e-mail requesting validation of the record in order to make it public through the ABS Clearing-House website. The national authorized users will then receive an e-mail informing them when the information has been made public. The Secretariat also noted that countries would be given flexibility in the private work area to designate multiple national authorized users and to decide which national authorized user can modify or draft which type of record.

21. In order to clarify the role of the person who validates a record, the term “clearing authority” could be renamed, e.g. to “national publishing authority”.

22. The experts considered how to address the existing information on ABS measures, competent national authorities and national focal points currently hosted on the CBD website. They suggested that this information should be made available to the relevant publishing authority as a draft with a given time frame for reviewing and validating the record for its publication. Following the expiry of the time allowed, records could be made public with the indication that they have not been validated.

D. *Contribution of non-Parties*

23. Experts noted that a country’s status as a Party or non-Party should be indicated in the ABS Clearing-House.

E. *Metadata and controlled vocabularies*

24. The experts agreed to discuss this issue in the context of the common formats.

F. *Confidentiality considerations*

25. The experts agreed that confidential information should not be submitted to the ABS Clearing-House, as all information published in the ABS Clearing-House is publicly available and that by the act of publishing it the user confirms that the information published is not confidential. They agreed that the responsibility for the protection of confidential information for the case of national records lies with the national publishing authority, and for reference records, with the person who submitted that information.

26. In relation to reference records and criteria for their publication through the ABS Clearing-House, the Secretariat explained that the current practice in the Biosafety Clearing-House is that the Secretariat ensures the submissions are relevant but does not exercise content control over these records on the basis of the opinions expressed. It also informed that the modalities of operation of the Biosafety Clearing-House provide that its operations should be guided by the principles of transparency, inclusiveness and equity and that these principles could also apply to the operation of the ABS Clearing-House.

G. Interoperability

27. The Secretariat explained that the ABS Clearing-House is being designed to be interoperable to share information with other databases and systems. It also noted that implementation of interoperability allowing a flow of information from national systems to the ABS Clearing-House would be done on a case-by-case basis and upon request.

H. Common formats for making information available to the ABS Clearing-House

28. The experts discussed the common formats prepared for facilitating the submission of information to the ABS Clearing House.

(a) Designation of ABS national focal point and clearing authorities for the ABS Clearing-House

29. The experts advised revising the format as follows:

(a) To include the facility to indicate whether it is a new record or a modification of an existing record; and

(b) To include the question “Is the ABS national focal point the authority for publishing national records in the ABS Clearing-House?”, and to provide the option to specify who the publishing authority is if the answer to this question is no.

(b) Competent national authority

30. The experts advised revising the format as follows:

(a) To add a field for providing information on the legal basis for the competence of the competent national authority;

(b) To include the facility to indicate whether the competent national authority is responsible for all functions under the Nagoya Protocol;

(c) Where there is more than one competent national authority, to make mandatory the function to specify the responsibilities of each of these authorities;

(d) In cases where a country wishes to move from having one competent national authority to more than one competent national authority, to require it to specify the responsibilities of each;

(e) To revise the classification of responsibilities according to type of genetic resources to be a list of keywords and add “traditional knowledge associated with genetic resources”; and

(f) To expand the field on “area of jurisdiction” to include “community”.

(c) Laws, regulations, guidelines, administrative or policy measures

31. The experts advised revising the format as follows:

i. To name the common format “legislative, administrative or policy measures on access and benefit-sharing”;

ii. To make the submission of a measure in its original language mandatory;

iii. To add the possibility of providing a summary of the measure to the section related to translation of the measure;

iv. To add a field indicating whether the measure is legally binding or not;

v. To make the information on the date of entry into force mandatory;

- vi. To clearly distinguish draft measures and retired measures from measures that are currently applicable;
 - vii. To add the possibility of providing information on whether a measure is limited in time;
 - viii. To report the elements of the scope of the measure as keywords and to expand the list of keywords to include additional relevant words, e.g. wildlife, livestock, fungi, soil biodiversity, *ex situ* collections;
 - ix. To add a sub-category under “relationship with other instruments” for plant genetic resources for food and agriculture exchanged using the standard material transfer agreement of the International Treaty on Plant Genetic Resources for Food and Agriculture;
 - x. To expand the top-level terms on “access and/or prior informed consent”, “benefit-sharing and/or mutually agreed terms”, and “compliance measures” to display the subcategories only after a top-level term has been selected; and
 - xi. To include “non-compliance” in the “compliance measures” field.
- (d) *Permits or their equivalent constituting an internationally recognized certificate of compliance*

32. The experts advised revising the format as follows:

- i. To include a reference in the introduction to remind the person completing the format that all information submitted would be made public and that it is their responsibility to ensure any confidentiality clauses in mutually agreed terms are respected;
- ii. To add additional clarity about non-mandatory fields;
- iii. To remove the word “title” from the section on the details of the permit;
- iv. To provide the facility for text entry, use of the “contact details” common format or the “organization” common format as well as multiple entries for the fields on “the provider” and the “person or entity to whom prior informed consent was granted”;
- v. To remove the option of “no” from the field on “confirmation that prior informed consent was obtained or granted” and from the field on “confirmation that mutually agreed terms were established”;
- vi. To add the facility to override the reporting of mandatory fields by checking a box indicating that the information is confidential; and
- vii. To add a facility to provide information on traditional knowledge associated with genetic resources; and
- viii. To locate the fields associated with prior informed consent more closely together.

33. A number of experts also suggested exploring the possibility of making mandatory the fields on (i) additional information about the uses covered by the permit or its equivalent or use restrictions; (ii) conditions for third party transfer; and (iii) date of expiry of the permit or its equivalent.

34. The experts considered the issue of updating or amending the information being submitted for the constitution of an internationally recognized certificate of compliance. Possible options to reflect in the common format could include:

- Information is being submitted for the issuance of a new internationally recognized certificate of compliance;

- Information is being submitted to replace a previously issued internationally recognized certificate of compliance (a new certificate will be generated and the old one will no longer be valid);
- Information is being submitted to update a previously issued internationally recognized certificate of compliance (a new certificate will be generated and the old one will still be valid); and
- An existing permit or its equivalent is being revoked and the internationally recognized certificate of compliance will no longer be valid.

(e) *Checkpoints*

35. The experts advised simplifying the format to include only the name of the checkpoint and its responsibilities.

(f) *Checkpoint communiqué*

36. Experts agreed that the information being provided to the ABS Clearing-House under Article 17(1)(a)(iii) would be published by the national publishing authority. It was noted that the format proposed to the IAC seemed to presuppose that a separate record would be created each time that information was collected or received from the checkpoint. Experts suggested that this format should therefore include the possibility for submitting aggregated information to the ABS Clearing-House and for an extended time period. It was also mentioned that many countries have not yet established checkpoints and therefore the type of information to be submitted to the ABS Clearing-House may need further consideration once more experience has been gained.

37. The experts advised revising the format as follows:

- i. To remove the fields on the “checkpoint providing the information”, the “title of the communiqué” and the “linkages with other checkpoint communiqués”;
- ii. To simplify the information to be provided if no internationally recognized certificate of compliance is available, by:
 - referring to “authority responsible for granting prior informed consent”;
 - merging the fields on “subject-matter or genetic resources relevant to the information collected or received” and “optional additional subject matter details” and to make this information non-mandatory; and
 - adding a field to indicate the evidence of prior informed consent or mutually agreed terms, e.g. through a reference number;
- iii. To add under the field on “short description of the information collected or received relevant to the utilization of genetic resources”, a sub-field on who is using the genetic resource and the type of use;
- iv. To explore the possibility of including fields for additional dates relevant to the utilization or commercialization of the genetic resource, as well as a field for the source of the genetic resource;

To provide the facility to include multiple internationally recognized certificates of compliance in this common format.

ITEM 4. PRIORITIES FOR FUTURE DEVELOPMENT OF THE PILOT PHASE OF THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE UNTIL THE FIRST MEETING OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL

38. Under this agenda item the Chair invited the IAC to consider section III of document UNEP/CBD/ABS/IAC-CH/1/2 and to provide technical advice to the Executive Secretary on the following issues in relation to the priorities for future development of the pilot phase of the ABS Clearing-House.

A. *Additional common formats for making information available to the ABS Clearing-House*

39. Regarding other information that was identified by the Protocol and the Intergovernmental Committee's guidance as relevant for the operation of the ABS Clearing-House, experts suggested the following:

(a) Information on model contractual clauses; codes of conduct and best practices; methods and tools developed to monitor genetic resources; and the contribution made by access and benefit-sharing measures to sustainable use and conservation of biodiversity, poverty alleviation and the Millennium Development Goals could be made available as reference records and searched through the virtual library;

(b) Information on measures to inform potential users of traditional knowledge associated with genetic resources about their obligations for access to and fair and equitable sharing of benefits arising from the utilization of such knowledge could be accommodated within the current available formats;

(c) Information on capacity-building and development initiatives at national, regional and international levels that should be shared through the ABS Clearing-House with a view to promoting synergy and coordination on capacity-building and development for access and benefit-sharing could be made available as reference records through the virtual library and a specific common format to facilitate the submission of information could be considered at a later stage if the need arises;

(d) Explanatory information about the legislative measures, such as explanatory memoranda or flow charts that describe the national ABS processes, was recognized as key information to facilitate the understanding of the legal frameworks by users, and as such, it was suggested to encourage its inclusion through a reference in the introduction of the common format on legislative, administrative or policy measures on access and benefit-sharing; and

(e) Information on the affiliation of Parties to other agreements with regard to genetic resources at the sectorial, regional or subregional level could be made available in the country profiles.

40. In relation to information on relevant competent authorities of indigenous and local communities, the experts were of the view that this information could be made available as part of a national record. Experts suggested the possibility of having competent authorities designated by indigenous and local communities and indigenous and local communities focal points to the ABS Clearing-House, and also discussed the standing of the records published in the ABS Clearing-House by such an authority. They advised that this matter should be referred to the Intergovernmental Committee.

B. Modalities for seeking feedback on the operation of the pilot phase

41. The experts emphasized the importance of having a fully functioning ABS Clearing-House by the time of entry into force of the Protocol and that all Governments should be actively encouraged to participate in the testing of the pilot phase of the Clearing-House, in particular those countries that have already ratified the Protocol. In this regard, the importance of submitting existing national information, such as on ABS measures and permits or their equivalent, was emphasized.
42. During the testing phase, experts considered that information submitted to the ABS Clearing-House should not be publicly available, and therefore, access would be limited to those who volunteered to participate in the testing.
43. The Executive Secretary could invite Parties and other Governments to participate in the testing of the pilot phase. Parties and other Governments would be encouraged to participate in the testing and provide feedback.
44. It was suggested that the holding of a capacity-building workshop back-to-back with the third meeting of the Intergovernmental Committee should be explored, subject to the availability of funds, and that the outcomes of the workshop on the testing of the pilot phase should be made available to third meeting of the Intergovernmental Committee. In addition, several members of the IAC, including those from Belarus, Brazil, Croatia, Madagascar, Mexico, Morocco, South Africa and Switzerland, volunteered to participate in the testing in consultation with their national focal points, as appropriate.

C. Operation of the informal advisory committee during the pilot phase

45. The experts noted the availability of e-mail exchanges, listservs and online discussions to continue to provide feedback, and suggested that other means could be explored as needed.

ITEM 5. OTHER MATTERS

46. In taking up agenda item 5, the Chair invited Mr. Kent Nnadozie, Senior Treaty Officer, Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture, to deliver a presentation. The Chair noted that this information would be useful for the future development of the pilot phase of the ABS Clearing-House, particularly in the context of exploring opportunities for collaboration with partners.
47. Mr. Nnadozie delivered a presentation on “Easy-SMTA”, the information technology system developed in support of users of the Multilateral System of Access and Benefit-sharing of the International Treaty on Plant Genetic Resources for Food and Agriculture to aid them in generating standard material transfer agreements and reporting on these agreements to the Governing Body of the International Treaty.
48. Following the presentation, the Chair invited the experts to raise any other matter related to the report on progress and priorities for future implementation of the pilot phase of the Access and Benefit-sharing Clearing-House.

ITEM 6. ADOPTION OF THE REPORT

49. The Chair introduced the draft summary of outcomes of the meeting, which was adopted as orally amended.

ITEM 7. CLOSURE OF THE MEETING

50. The Chair made some closing remarks expressing his appreciation for the constructive and insightful contributions and noted that there had been a tremendous amount of input from a wide range of experiences and understandings. He congratulated the IAC for the advice and guidance that had been delivered and noted the productive efforts that were made over the past three days. He thanked the European Union for its financial contribution to make the meeting possible and the Secretariat for its work in delivering the ABS Clearing-House and its efforts in preparing the meeting.

51. Following the customary exchange of courtesies, the meeting was closed at 5 p.m. on Friday, 4 October 2013.
