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5 May 2015

NOTIFICATION

Submission of views in preparation for the Expert Meeting on the need for and modalities of a global multilateral benefit-sharing mechanism and the first meeting of the Compliance Committee of the Nagoya Protocol

Madam/Sir,

Further to notification 2015-023 of 3 March 2015 and information on the relevant parts of the decisions adopted by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol (COP-MOP) requesting direct actions by Parties and other Governments, I would like to draw your attention to elements of the following decisions that call for the submission of views:

A. Decision NP-1/10: the need for and modalities of a global multilateral benefit-sharing mechanism

Paragraph 1 of decision NP-1/10 invites Parties, other Governments, international organizations, indigenous and local communities, and relevant stakeholders to submit to the Executive Secretary views on:

- (i) Situations which may support the need for a global multilateral benefit-sharing mechanism that are not covered under the bilateral approach;
- (ii) Possible modalities for a global multilateral benefit-sharing mechanism as well as information regarding the implications of different scenarios on these modalities; and
- (iii) The areas requiring further consideration, as identified in paragraph 23 of the report of the Expert Meeting on Article 10 of the Nagoya Protocol.

Such views may include, where available, reflections on any experiences gained working towards the implementation of the Nagoya Protocol.

The areas for further examination as identified in paragraph 23 of the report of the Expert Meeting on Article 10 of the Nagoya Protocol are provided in the annex to this notification.

Parties to the Nagoya Protocol, other Governments, international organizations, indigenous and local communities and relevant stakeholders are invited to submit views on the above matter as soon as possible and no later than **30 September 2015**.

The views submitted are to be synthesized for consideration by an expert meeting, which is tentatively scheduled for 1 to 3 February 2016, in Montreal, Canada. More details on the meeting, including the invitation for nominations, will be circulated by notification in due course.

To : ABS National Focal Points (CBD Focal Points where ABS National Focal Points have not yet been designated)
Indigenous and local communities and relevant organizations



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B. Decision NP-1/4: Cooperative procedures and institutional mechanisms to promote compliance with the Nagoya Protocol and to address cases of non-compliance

Paragraph 3 of decision NP-1/4 invites “Parties, other Governments, international organizations, indigenous and local communities, and relevant stakeholders to submit views to the Executive Secretary on matters raised in paragraph 2(b) above in order to assist the work of the Compliance Committee in its consideration of this matter.”

Paragraph 2(b) requests the Executive Secretary to arrange for at least one meeting of the Compliance Committee to be held before the second meeting of the COP-MOP, including for the purpose of identifying and considering the need for and modalities of support, including possibly through a flexible mechanism to provide advice or assistance to Parties, in particular developing country Parties, and, where appropriate and applicable, indigenous and local communities, to address challenges related to compliance with the provisions of the Nagoya Protocol, with a view to making effective use of the compliance mechanism.

Parties to the Nagoya Protocol, other Governments, international organizations, indigenous and local communities and relevant stakeholders are invited to submit views on the above matter as soon as possible and no later than **1 December 2015**.

The first meeting of the Compliance Committee is tentatively planned for 6 to 8 April 2016, in Montreal, Canada.

Please note that submissions should be sent through an official letter addressed to the Executive Secretary by e-mail to secretariat@cbd.int.

I thank you for your cooperation and continued support to the Convention and its Nagoya Protocol.

Please accept, Madam/Sir, the assurances of my highest consideration.

Bráulio Ferreira de Souza Dias
Executive Secretary

Annex

The areas for further examination as identified in paragraph 23 of the report of the Expert Meeting on Article 10 of the Nagoya Protocol (document UNEP/CBD/ICNP/3/5) are as follows:

- (a) Whether or not there is a need for a GMBSM;
- (b) Whether there is sufficient experience with implementation of the Protocol to determine whether such a need exists;
- (c) Whether the utilization of genetic resources without PIC would entail benefit-sharing obligations that could be met through a GMBSM;
- (d) Whether a Party's decision not to require PIC (e.g. under Art. 6(1)) or to waive PIC (e.g. under Art. 8) can constitute situations for which it is not possible to grant or obtain PIC in the context of Article 10;
- (e) Whether benefit-sharing requirements are waived when a Party has decided not to require PIC or has waived PIC;
- (f) Whether there is no requirement for benefit-sharing when mutually agreed terms are not required or have not been established;
- (g) Whether the absence of ABS legislation or regulatory requirements in a Party due to lack of capacity or lack of governance means that PIC for access to genetic resources is not required and there is no obligation to share benefits. In the context of Article 10, whether such instances would constitute situations for which it is not possible to grant or obtain PIC;
- (h) Whether the absence of measures in a Party to implement Article 7 means that PIC for access to traditional knowledge associated with genetic resources is not required and there is no obligation to share benefits. In the context of Article 10, whether such instances would constitute situations for which it is not possible to grant or obtain PIC;
- (i) Whether a genetic resource that is found in more than one Party constitutes a transboundary situation in the language of Article 10 (even if it is possible to identify the source of the genetic resource) or whether the bilateral approach should be applied if a genetic resource is found in more than one Party and it is possible to identify the source of the genetic resource. In the latter case, whether the bilateral approach or a GMBSM could be fair and equitable;
- (j) Whether traditional knowledge associated with a genetic resource that is found in more than one Party constitutes a transboundary situation in the language of Article 10 (even if it is possible to identify the source of the genetic resource) or whether the bilateral approach should be applied if traditional knowledge associated with a genetic resource is found in more than one Party and it is possible to identify the source of the genetic resource. In the latter case, whether the bilateral approach or a GMBSM could be fair and equitable;
- (k) Whether Article 11 is sufficient to respond to transboundary situations;
- (l) Whether a GMBSM should address the sharing of benefits arising from the utilization of:
 - (i) Genetic resources in ex situ collections in relation to transboundary situations or for which it is not possible to grant or obtain PIC;
 - (ii) Genetic resources in ex situ collections used for purposes for which PIC was not granted and for which it is not possible to grant or obtain PIC;
 - (iii) Genetic resources in areas beyond national jurisdiction or whether this issue falls within the competence of the United Nations General Assembly;
 - (iv) Genetic resources in the Antarctic Treaty area;
 - (v) Traditional knowledge associated with genetic resources that is publicly available and where the holders of such traditional knowledge cannot be identified or for which it is not possible to grant or obtain PIC.