



Convention on Biological Diversity

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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

Second meeting

New Delhi, 2-6 July 2012

Item 3.2 of the provisional agenda*

RECOMMENDATION ADOPTED BY THE INTERGOVERNMENTAL COMMITTEE FOR THE NAGOYA PROTOCOL AT ITS SECOND MEETING

2/1. *Elaboration of guidance for the financial mechanism*

The Intergovernmental Committee for the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization,

1. *Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, at its first meeting, adopts a decision along the lines suggested in annex I below;
2. *Also recommends* that the Conference of the Parties at its eleventh meeting adopts a decision along the lines suggested in annex II below;
3. *Invites* the Global Environment Facility to provide to the Conference of the Parties at its eleventh meeting a report on the progress made under the Nagoya Protocol Implementation Fund to support the ratification and implementation of the Protocol.

* UNEP/CBD/ICNP/2/1/Rev.1.

Annex I

**DRAFT DECISION FOR THE CONSIDERATION OF THE FIRST MEETING OF THE
CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE
NAGOYA PROTOCOL**

The Conference of the Parties serving as the meeting of the Parties to the Protocol,

*I. Operational arrangements between the Convention and the Council of the
Global Environment Facility with respect to the Nagoya Protocol*

1. *Takes note* of the memorandum of understanding between the Conference of the Parties and the Council of the Global Environment Facility (GEF Council) adopted in decision III/8 and *confirms* that the operational arrangements outlined in the memorandum of understanding shall apply, *mutatis mutandis*, to the Protocol;

2. *Recommends* that the Conference of the Parties invites the Council of the Global Environment Facility to submit the chapter on access and benefit-sharing of its report directly to the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, in time for its consideration;

3. *Decides* to conduct periodic reviews of the effectiveness of the financial mechanism with respect to the implementation of the Nagoya Protocol in time for their consideration by the Conference of the Parties at its meetings scheduled to review the effectiveness of the financial mechanism;

4. *Also decides* to undertake, in time for scheduled replenishments of the Global Environment Facility Trust Fund, an assessment of the amount of funds that are necessary to assist developing country Parties and Parties with economies in transition in fulfilling their commitments under the Nagoya Protocol, for consideration by the Conference of the Parties in its determination of funding requirements;

5. *Recommends* that the Conference of the Parties invites representatives of the Global Environment Facility to attend, and make official statements to, the ordinary sessions of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol with a view to reporting on the implementation of the guidance to the GEF with respect to access and benefit-sharing;

6. *Recommends* that the Conference of the Parties encourages the secretariats of the Convention and the Global Environment Facility to exchange information and consult on a regular basis prior to meetings of the Council of the Global Environment Facility and meetings of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol with a view to facilitate the effectiveness of the financial mechanism in assisting Parties to implement the Protocol.

II. Guidance for the financial mechanism

(a) Policy and strategy

7. *Takes note* of the consolidated guidance to the financial mechanism related to policy and strategy adopted in decision X/24, and *invites* the Conference of the Parties to review,

and as appropriate, revise this guidance to take into account new developments such as the adoption of the Nagoya Protocol;

(b) *Programme priorities*

8. *Recommends* that the Conference of the Parties considers integrating the following guidance on programme priorities with respect to access and benefit sharing into its overall guidance to the financial mechanism;

The Conference of the Parties,

1. *Requests* the Global Environment Facility to finance projects that will assist in:

(a) Building the capacity of Parties to develop, implement and enforce domestic legislative, administrative or policy measures on access and benefit-sharing, thereby contributing to the conservation of biological diversity and sustainable use of its components, including through:

- (i) Identification of relevant actors and existing legal and institutional expertise for the implementation of the Nagoya Protocol;
- (ii) Taking stock of domestic measures relevant to ABS in light of the obligations of the Nagoya Protocol;
- (iii) Development and/or amendment of access and benefit-sharing legislative, administrative or policy measures with a view to implementing their obligations under the Nagoya Protocol;
- (iv) Establishment of ways to address transboundary issues; and
- (v) Establishment of institutional arrangements and administrative systems to provide access to genetic resources, ensure benefit-sharing, support compliance with prior informed consent and mutually agreed terms and monitor the utilization of genetic resources and traditional knowledge associated with genetic resources, including support for the establishment of check points.

(b) Building the capacity of Parties to negotiate mutually agreed terms to promote equity and fairness in negotiations in the development and implementation of access and benefit-sharing agreements, including through enhanced understanding of business models and intellectual property rights;

(c) Building the capacity of Parties to develop their endogenous research capabilities to add value to their own genetic resources and traditional knowledge associated with genetic resources through, *inter alia*, technology transfer; bioprospecting and associated research and taxonomic studies; and the development and use of valuation methods;

(d) Addressing the capacity needs and priorities of indigenous and local communities and relevant stakeholders; in particular, projects that would:

- (i) Encourage their participation in legal, policy and decision-making processes; and
 - (ii) Assist in building their capacity related to genetic resources and traditional knowledge associated with genetic resources, such as through the development of community protocols, model contractual clauses and minimum requirements for mutually agreed terms to secure the fair and equitable sharing of benefits.
- (e) Enabling Parties to actively participate in the Access and Benefit-sharing Clearing-House and use the best available communication tools and Internet-based systems such as audio and video tools for access and benefit-sharing activities;
- (f) Supporting Parties in raising-awareness of the importance of genetic resources and traditional knowledge associated with genetic resources, and related access and benefit-sharing issues, notably through the development and implementation of national and regional awareness-raising strategies;
- (g) Supporting the implementation of the strategic framework for capacity-building and development in support of the implementation of the Protocol;

2. *[Decides that the above guidance supersedes all previous guidance to the financial mechanism related to access and benefit-sharing;]*

3. *[Recommends the allocation of funds by the Global Environment Facility in a separate window specific to access and benefit-sharing activities under the System for Transparent Allocation of Resources (STAR).]*

(c) *Eligibility criteria:*

4. *Decides that all developing countries, in particular the least developed and small island developing States, as well as countries with economies in transition, which are Parties to the Nagoya Protocol, are eligible to receive funding from the Global Environment Facility;*

5. *Adopts the following transitional clause in the eligibility criteria for funding under the financial mechanism of the Protocol:*

“Developing countries, in particular the least developed countries and small island developing States amongst them, and countries with economies in transition that are Parties to the Convention and provide a clear intention towards becoming Parties to the Protocol, shall be eligible for funding by the Global Environment Facility for up to four years after the Protocol has entered into force for the development of national measures and institutional capabilities in order to enable them to become a Party. Evidence of such intention shall take the form of a written assurance to the Executive Secretary that the country intends to become a Party to the Nagoya Protocol on completion of the activities to be funded.”

Annex II

**DRAFT DECISION FOR THE CONSIDERATION OF THE CONFERENCE OF THE PARTIES
TO THE CONVENTION ON BIOLOGICAL DIVERSITY AT ITS ELEVENTH MEETING**

The Conference of the Parties,

*I. Programme priorities for inclusion in the four-year framework for programme priorities
for the period 2014-2018*

1. *Invites* the Global Environment Facility to support the following activities during its sixth replenishment period (2014-2018), *inter alia*:

(a) Building the capacity of Parties to develop, implement and enforce domestic legislative, administrative or policy measures on access and benefit-sharing, thereby contributing to the conservation of biological diversity and sustainable use of its components, including through:

- (i) Identification of relevant actors and existing legal and institutional expertise for the implementation of the Nagoya Protocol;
- (ii) Taking stock of domestic measures relevant to ABS in light of the obligations of the Nagoya Protocol;
- (iii) Development and/or amendment of access and benefit-sharing legislative, administrative or policy measures with a view to implementing their obligations under the Nagoya Protocol;
- (iv) Establishment of ways to address transboundary issues; and
- (v) Establishment of institutional arrangements and administrative systems to provide access to genetic resources, ensure benefit sharing, support compliance with prior informed consent and mutually agreed terms and monitor the utilization of genetic resources and traditional knowledge associated with genetic resources, including support for the establishment of check points.

(b) Building the capacity of Parties to negotiate mutually agreed terms to promote equity and fairness in negotiations in the development and implementation of access and benefit-sharing agreements, including through enhanced understanding of business models and intellectual property rights;

(c) Building the capacity of Parties to develop their endogenous research capabilities to add value to their own genetic resources and traditional knowledge associated with genetic resources through, *inter alia*, technology transfer; bioprospecting and associated research and taxonomic studies; and the development and use of valuation methods;

(d) Addressing the capacity needs and priorities of indigenous and local communities and relevant stakeholders; in particular, projects that would:

- (i) Encourage their participation in legal, policy and decision-making processes;

/...

- (ii) Assist in building their capacity related to genetic resources and traditional knowledge associated with genetic resources, such as through the development of community protocols, model contractual clauses and minimum requirements for mutually agreed terms to secure the fair and equitable sharing of benefits, and
- (iii) Support a series of regional and subregional capacity-building workshops;
- (e) Enabling Parties to actively participate in the Access and Benefit-sharing Clearing-House and use the best available communication tools and Internet-based systems such as audio and video tools for access and benefit-sharing activities;
- (f) Supporting Parties in raising-awareness of the importance of genetic resources and traditional knowledge associated with genetic resources, and related access and benefit-sharing issues, notably through the development and implementation of national and regional awareness-raising strategies;
- (g) Supporting the implementation of the strategic framework for capacity-building and development in support of the implementation of the Protocol;

II. The Nagoya Protocol Implementation Fund

2. *Welcomes* the establishment of the Nagoya Protocol Implementation Fund (NPIF) and *notes* with appreciation the initial financial contributions made by Japan, Switzerland, Norway, the United Kingdom, and France to the Fund;

3. *Recommends* that funds from the NPIF be used to support projects which will assist the early entry into force of the Nagoya Protocol and create enabling conditions at the national and regional levels for its effective implementation, in accordance with the primary objective of the NPIF as set out in document GEF/C.40/11/Rev.1, dated 26 May 2011;

4. *Recommends* that the Global Environment Facility expedite procedures for access to funds from the NPIF;

5. *Invites* donors and the private sector to contribute to the NPIF with a view to ensuring continued support for the early entry into force and implementation of the Nagoya Protocol;

III. Support for activities prior to the entry into force of the Nagoya Protocol

6. *Reiterates* its invitation to the Global Environment Facility to provide financial support to Parties to assist with the early ratification of the Nagoya Protocol and its implementation.
