

## DSI Working Group Highlights: Tuesday, 13 August 2024

Deliberations in the Committee of the Whole (CoW) focused on non-monetary benefit-sharing; an African proposal to establish a database of digital sequence information (DSI) under the Convention's Clearing-house Mechanism (CHM); and governance-related modalities, including on the relation between the multilateral benefit-sharing mechanism from DSI use and national measures, and cooperation with relevant international agreements. Two contact groups met to address options on monetary contributions to the DSI fund and on disbursement of funds.

### Further Development of the Multilateral Mechanism

CoW Co-Chair Martha Mphatso Kalemba (Malawi) introduced a non-paper developed by the Co-Chairs on the basis of Monday's discussions, containing elements for a revised draft decision to be considered at the 16th meeting of the Conference of the Parties (COP 16).

**Non-Monetary Benefit-Sharing:** Egypt, for the AFRICAN GROUP, suggested new text, strongly encouraging entities managing public databases on DSI to verify that new sequences are obtained in compliance with the legal framework of the country of origin and have received authorization from the relevant authority for publication. The AFRICAN GROUP further proposed establishing a centralized database for DSI under the CHM, ensuring that it facilitates transparent monitoring of access and utilization of DSI and supporting non-monetary benefit-sharing. They noted that the DSI database will: monitor access to and utilization of DSI, ensuring benefits are shared fairly and equitably; support the capacity of all parties; facilitate information exchange; and assist in monitoring compliance.

The EU, supported by the UK, noted that all DSI users, regardless of the level of development of the country in which they are located, should share non-monetary benefits from DSI use, questioning whether such sharing should be performed through the multilateral mechanism, as "non-monetary benefit-sharing is highly decentralized." SWITZERLAND noted that non-monetary benefits can be shared through the access and benefit-sharing (ABS) Clearing-house and open-access public databases. NORWAY and CANADA favored a bilateral approach on non-monetary benefit-sharing, noting that there should not be a trigger for non-monetary benefit-sharing, and suggested that information on capacity building could be shared through the CHM.

The UK and CANADA called to clarify the purpose of the non-monetary benefit-sharing actions proposed to include supporting DSI generation, use, and storage. SWITZERLAND, the UK, JAPAN, CANADA, AUSTRALIA, and the REPUBLIC OF KOREA proposed that all DSI users be "encouraged" to share non-monetary benefits, as opposed to language noting they "should" share these benefits.

Prioritizing the sharing of monetary benefits by all users, BRAZIL, with ARGENTINA, stressed that correcting imbalances between developed and developing countries can not only be addressed through non-monetary benefit-sharing.

CÔTE D'IVOIRE and TOGO expressed concern about the reference that all DSI users share non-monetary benefits subject to "individual circumstances," noting that this gives them latitude not to share, and, with the UK, JAPAN, and AUSTRALIA, called for clarity on the lists of "sectors or subsectors highly dependent on the use of DSI" and "non-monetary benefits." SYRIA pointed to the capacity gap and examining how criteria for non-monetary benefits could be applied in light of it.

On a list of non-monetary benefits, CANADA noted that its components had not been negotiated and underlined that technology transfer could only take place on mutually agreed terms. SWITZERLAND called for the list to be streamlined to ensure that non-monetary benefit-sharing is incentivized and promoted. JAPAN requested to delete reference to licensing, as there are associated costs, and to joint ventures, which are considered monetary benefits under the Nagoya Protocol. The UNITED ARAB EMIRATES expressed reservations about a reference to placing products in the public domain. The INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY also questioned the reference, noting that if there was any link to Indigenous Peoples it would require their prior informed consent, and urging inclusion of biocultural metadata. COLOMBIA highlighted that promoting joint research partnerships should also include community, participatory and biocultural partnerships.

INDIA called for discussing relevant enforcement modalities. ZIMBABWE suggested adding reference to knowledge sharing. JORDAN called for a clear process to give parties the chance to transfer technology and build capacity, including in partnership with the private sector. KENYA highlighted the great potential in the DSI value chain and for product development. SOUTH AFRICA, BRAZIL, and others suggested that monetary benefits could be ring fenced to finance non-monetary benefits, including developing skills and capacity on DSI. The EU and the UK proposed exploring linking non-monetary benefits with monetary ones through a dedicated window in the global fund. UGANDA urged recognizing and compensating contributions from communities, and structured compliant management of DSI. CGIAR pointed to sharing of non-monetary benefits by its centers.

BRAZIL noted that the focus should be on the country of origin of genetic resources that provided the DSI rather than the country that DSI was produced. The EU highlighted the need to showcase non-monetary benefits that are or have been shared through centralized reporting.

On the African proposal to establish a database under the Convention, the EU questioned the added value of such a database, underscoring that "we have a functional and operational

system of global and national databases.” SWITZERLAND, JAPAN, AUSTRALIA, and CANADA opposed the proposal, noting it could require a track-and-trace system. NORWAY and JAPAN noted that a centralized database could cause fragmentation. SYRIA and UGANDA supported the proposal. THE AFRICAN GROUP clarified that their proposal aims to make existing clearing houses more effective and functional, adding that the Biosafety Clearing-house (BCH) already includes sequence data. The Secretariat provided explanations on the Genetic Element Registry of the BCH.

NORWAY, with others, drew attention to the needs-based and country-driven match-making function within the National Biodiversity Strategies and Action Plans Accelerator Partnership. The DSI SCIENTIFIC NETWORK expressed skepticism over the cost and feasibility of establishing a central DSI database. The THIRD WORLD NETWORK supported the proposed database, arguing it would protect those parties without national databases.

**Governance:** EGYPT, CÔTE D’IVOIRE, and JORDAN questioned text stating that parties should refrain from putting in place national measures on benefit-sharing from the use of DSI in public databases, noting that these measures should be complementary to the multilateral mechanism. The UK suggested refraining from national bilateral measures. SWITZERLAND argued in favor of a purely multilateral mechanism. ARGENTINA expressed concerns that the provision interferes with national sovereignty and opposed excluding countries with bilateral agreements from accessing the multilateral mechanism. CHINA proposed encouraging parties to harmonize national measures to effectively implement the multilateral mechanism. MALAWI suggested encouraging parties to put in place national measures in support of the multilateral mechanism.

On cooperation with other ABS instruments, CHILE asked to specify that these provisions apply to instruments related to DSI. NORWAY proposed a cooperative mechanism to enhance coherence and prevent fragmentation on DSI, noting that this could be through a collective arrangement between relevant instruments. The EU proposed a general reference to adaptability to other ABS arrangements.

JAPAN noted that users already contributing to other fora should not be subject to contributing to the multilateral mechanism, and suggested, with SWITZERLAND and AUSTRALIA, including specific language to preclude double contributions. CANADA added avoiding stacking of obligations.

BRAZIL welcomed a reference to the need to respect the rights of Indigenous Peoples and local communities (IPLCs) and CANADA asked to include a reference to the UN Declaration on the Rights of Indigenous Peoples.

### **Contributions to the DSI Fund**

Contact Group Co-Facilitators Eliška Rolfová (Czechia) and Joaquin Salzberg (Argentina) noted that discussions will focus on three options for monetary benefit-sharing contained in the non-paper, and the relevant list of sectors and sub-sectors highly dependent on DSI use. They outlined the three options: DSI users contributing a percentage of the profits or revenue generated by products and services placed on the market; companies in sectors highly dependent on DSI use contributing a percentage of their profits or revenue, accompanied by a list of relevant sectors; and a contribution of 1% of the retail value of all products and services linked to the utilization of biological resources.

A delegation suggested a fourth option where companies which actively use DSI on genetic resources are encouraged to contribute a portion of their revenue or profit to the DSI fund.

Discussions focused on: the merits and shortcomings of each option; the need to clarify terminology and further reflect on

modalities related to revenue or profit; the subjective element around sectors “highly dependent” on DSI use; and missing elements and areas to clarify.

On the options, several delegations were concerned that the proposal for a 1% retail value contribution was beyond the scope of Decision 15/9. One noted that although it is not beyond the scope, as previous discussions had indicated that the multilateral mechanism could also extend to all biological resources, it would be neither politically nor practically viable. Several called to protect the interests of small- and medium-sized businesses, noting that a blanket requirement would disincentivize these groups.

Several highlighted their willingness to consider drawing from the initial options to develop a hybrid one, although some expressed a desire to go with one option or other in order to simplify the process. Many delegations favored a levy on profit or turnover as opposed to revenue. Others called for specialized information before engaging in further talks about the percentage of profits/revenue to be contributed by users/companies, calling to hear from economists as well as business owners across the board. Some provided possible definitions, recognizing that revenue is a broader concept, and that there are different notions of “profit,” including before and after tax. Many stressed the need to ensure that calculations are based on information that is publicly accessible and fair to users.

### **Disbursement of Funds**

Contact Group Co-Facilitators Nneka Nicholas (Antigua and Barbuda) and Salima Kempenaer (Belgium) invited delegates to focus on two options for disbursement of funds generated from the use of DSI on genetic resources. The first entails a project-based disbursement though a country-driven or community-driven process, taking into account indicative allocations for countries and IPLCs, including women and youth, administered by an international entity, such as the Global Environment Facility. The second comprises direct allocations to countries, according to an agreed formula reflecting each country’s biodiversity richness and level of development.

Delegates noted that the two options provide a good basis for further discussion with some noting that they could be combined into a hybrid model. Discussions focused on: the purpose for disbursements; the preferred allocation model; the entity responsible for administering the DSI fund; the need for transparency and accountability; and the criteria and formula for potential direct allocations, with some expressing concerns regarding how to take into account biodiversity richness and level of economic development. Discussions continued into the night.

### **In the Corridors**

Questions of non-monetary benefit-sharing always seem to pose greater challenges than envisioned. On the face of it, one participant noted, it should be easy to share benefits that do not have a price tag attached, including building relevant capacities, sharing knowledge and information, and transferring technology where necessary. “There is always a price tag though,” another commented, pointing out that relevant technologies are rarely free and available to use. Discussions revealed a number of key questions. Who should share non-monetary benefits, how, and under which terms? How are these benefits accounted for? Is open access to data a benefit in and of itself? Will it bridge or expand current inequities? How can it support fairness and equity in benefit-sharing? “We seem to be unearthing more questions than answers,” one delegate sighed, “and we may not have the necessary qualifications to answer all of them.” “Still, we have made huge steps - these discussions were unimaginable some years ago,” another shared, hurrying to the evening contact group.