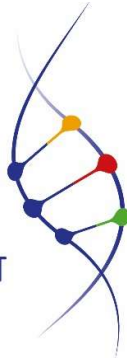


THE **ABS**
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RENFORCEMENT
DES CAPACITES
POUR L'**APA**

Webinar Report:

Reflecting on the CBD COP16 decision on DSI

- what [needs to] [could] [should] happen next?

Thursday, 12 December 2024 – 12.00 to 14.00 UTC

Link to the recording: https://www.youtube.com/watch?v=ww7kZNN_t9U

Welcome Remarks

Natalie Feltman, South African Department of Forestry, Fisheries & Environment (DFFE)

The speaker welcomed participants to a post-COP16 discussion, emphasizing the importance of continuing the dialogue on DSI (digital sequence information). She acknowledged progress made to date but highlighted the need for further clarity, unpacking, and actionable steps to develop workable and implementable solutions. She expressed gratitude for attendees' participation and hope that the webinar would advance the discussion.

Gaute Hanssen, Norwegian Ministry of Climate and Environment

The speaker highlighted the successes of Cali, particularly regarding DSI, the multilateral mechanism, and the Cali Fund. He emphasized two key messages from the decision: (1) payment is required for using biodiversity or its information for commercial purposes, and (2) science and research are exempt from payment but contribute in other ways. Acknowledgments were given to various contributors, including the Co-Chairs, the CBD Secretariat, stakeholders, and organizations including the London School of Economics (LSE) for its foundational work on the “LSC model”. The speaker noted that much intersessional work remains and compared the task ahead to unpacking and organizing elements of the Cali decision.

Dr Hartmut Meyer, ABS Capacity Development Initiative

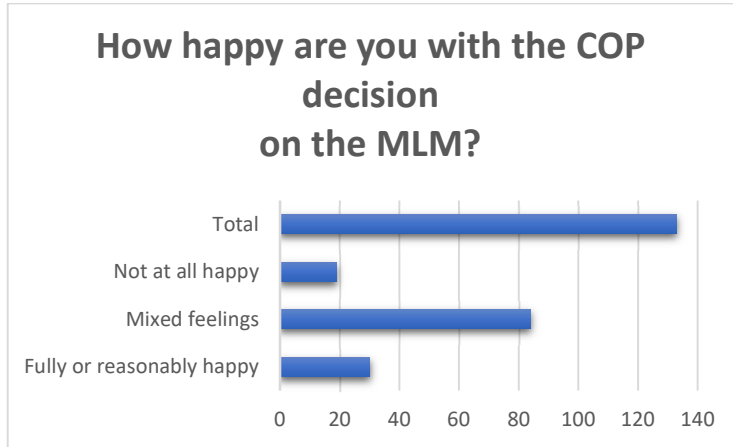
The speaker welcomed participants and introduced the agenda

Agenda:

- Input: Building the Cali Fund multilateral mechanism for DSI benefit-sharing
- Panel discussion 1: Party representatives
- Panel discussion 2: Stakeholder representatives
- Questions from the chat to panellists
- Wrap up & Goodbye

Poll: How happy are you with the COP decision on the MLM?

Before the substantive start of the webinar the almost 170 participants were asked to indicate in a short poll their satisfaction with the COP 16 decision on the MLM. The majority of the total 133 respondents indicated mixed feelings:



Input - Building the Cali Fund multilateral mechanism for DSI benefit-sharing: An initial overview of some key construction sites

Pierre du Plessis, ABS Capacity Development Initiative:

The speaker having not been in Cali offered an external perspective on Decision 16/2 introducing key themes for panel discussions. He compared the implementation process to a construction project, emphasizing the need for solid foundations, precise building blocks, and coordinated effort. The full presentation is provided in Annex 2 of this report.

Foundations of the Mechanism

- The **legal foundations** of the Charter of the United Nations, the CBD, the Nagoya Protocol, and COP decisions reaffirm rights to genetic resources, including sovereign and Indigenous rights.
- These foundational elements remain unchanged and guide the implementation of Decision 16/2.

Building Blocks

The key components for constructing the mechanism include:

- **Users and providers:** Defining roles and responsibilities.
- **Access mechanisms:** Establishing clear pathways for accessing genetic resources.
- **Traceability and benefit allocation:** Ensuring transparency in tracking digital sequence information (DSI) and allocating benefits to specific stakeholders.
- **Blueprint:** Decision 16/2 provides a framework for action, stressing the importance of voluntary implementation while acknowledging its non-legally binding nature.

Key tools and urgency

- Tools include compromise, urgency driven by the biodiversity crisis, and recognition of DSI’s role in addressing global challenges.
- The timeline features milestones such as COP 17 (2026) for formulating a benefit-sharing mechanism and reviews in 2028 and 2030, aligned with the Global Biodiversity Framework.

Critical construction sites

1. Funding the Mechanism:

- Agreement that all users should contribute, with an indicative benefit-sharing rate.
- Large users, including those in artificial intelligence sectors, are prioritized.
- Bilateral ABS mechanisms remain unaffected unless voluntarily included.
- Issues include seed funding, user participation incentives, and ensuring legal certainty.

2. Disbursing Funds:

- Funds must be transparent, effective, and accountable.
- Up to 50% of funds should benefit IPLCs, women, and youth for self-identified priorities.
- Challenges involve administrative and reporting obligations, oversight costs, and managing shared ecosystems.

3. Non-Monetary Benefit Sharing:

- The decision supports complementary non-monetary benefit sharing.
- Challenges include identifying clearinghouses, aligning with capacity-building strategies, and ensuring IPLC proposals meet biodiversity conservation criteria.

4. Governance and Coordination:

- Governance structures like steering committees and COP oversight need clarity.
- Data governance at the database level will be reviewed against COP 15.9 in future COPs.
- Non-participation by the Vatican and the U.S. poses challenges to comprehensive implementation.

5. Alignment with Other Instruments:

- Decision 16/2 promotes mutual supportiveness and adaptability with other benefit-sharing arrangements.
- Questions persist about overlaps with health, agriculture, and biodiversity priorities, as well as conflicts with frameworks like BBNJ.

Call to Action and Encouragement

The speaker stressed the importance of sustained effort, collaboration, and political will to achieve a lasting mechanism. Drawing parallels with historic construction projects, he encouraged perseverance and dedication to build an enduring and impactful system.

Closing Thoughts

He invited panellists and participants to engage in discussions, use the chat to identify priorities, and contribute to refining the implementation process. Success, he emphasized, depends on the collective will and effort of all stakeholders.

Panel Discussions

Moderation: **Timothy Hodges**, *McGill University, Canada*

Panel 1: Parties

Katie Beckett, *Head of ABS negotiations and domestic policy, Department for Environment, Food and Rural Affairs, United Kingdom*

Eduardo Silva Besa, *Deputy Director of the Division of Environment, Climate Change and Oceans, Ministry of Foreign Affairs, Chile*

Ossama Abdel-Kawy, *Professor of Pharmaceutical Science, Atomic Energy Authority, Egypt*

Hugo Schally, *Adviser for international negotiations, DG Environment of the European Commission*

Panel 2: Stakeholders

Jennifer Tauli Corpuz, *Managing Director Policy, NIA TERO*

Daphne Yong-d'Hervé, *Director, Global Network Policy Engagement International Chamber of Commerce (ICC)*

Martha Lucia Cepeda, *Research and Knowledge Transfer Director, Universidad Central, Bogotá, Colombia*

Michael Halewood, *Principal Scientist, Alliance of Bioversity International and CIAT & the CGIAR Genebank Initiative, Rome, Italy*

All panellists had the opportunity to reflect on four questions highlighted below. Convergences and divergences among the panellists is summarised for each of the questions

Question 1: This first question is about “money-in”. Specifically, what roles do you envision industry playing in getting the ball rolling in terms of cash flow into the Fund? And what actions should governments, if any, take in these key first steps in growing the Fund? Incentives? Monitoring and “compliance measures”? Awareness raising?

The discussions broadly converged on the need for awareness, incentives, collaboration, and global participation. Divergences arose around the degree of government involvement, industry readiness, and the extent to which the mechanism is ready to operate effectively. These differences reflect varying priorities and perspectives on how to balance regulatory, voluntary, and collaborative approaches to ensure the success of the Cali Fund.

Areas of convergence:

Government roles: Panellists agree that governments should lead campaigns to raise awareness and educate industries about the significance of benefit-sharing and the Cali Fund. There is consensus on the importance of incentives (e.g. tax benefits, recognition of contributions) to motivate voluntary industry participation. Governments should ensure clarity in laws and possibly introduce measures to align contributions with compliance obligations.

Industry engagement: Speakers highlighted the need for proactive industry participation, especially by early movers, to build momentum and credibility. Incorporating contributions into corporate social responsibility strategies were seen as a practical way for companies to engage.

Collaboration across sectors: There is a shared emphasis on the importance of partnerships among governments, industry, and stakeholders to develop, implement, and refine the mechanism.

Global participation: The need for contributions from companies worldwide, not just in Europe or developed nations, is a point of agreement to ensure fairness and credibility.

Addressing ambiguities: Most speakers recognize the need for greater clarity in the mechanism, particularly concerning legal obligations, contribution expectations, and the roles of different actors.

Incentivizing voluntary contributions: There is agreement on aligning incentives with industry interests, ensuring that companies see tangible benefits from their participation.

Areas of divergence:

Role of governments in legislation: Two panellists suggest governments could mandate contributions through legislation or administrative measures, while others advocate for voluntary contributions without government-mandated requirements, reflecting some scepticism about imposing legislative measures.

Industry perception and participation: Some panellists express optimism about initial industry responses and willingness to contribute. However, one speaker emphasizes industry struggles with

understanding the mechanism and hesitations due to ambiguities and perceived high contribution rates.

Role of multilateral mechanisms: Two speakers emphasize the role of multilateral mechanisms in ensuring compliance and overseeing contributions. Another panellist suggests that compliance monitoring should not interfere with existing systems like database governance.

Ambiguities in the Decision text: A panellist highlights significant challenges due to ambiguities in the decision text, particularly regarding indirect benefits and user definitions. Others see these ambiguities as part of an ongoing refinement process.

Scope of contributions: Some panellists focus on the mechanism's scope being limited to publicly available DSI and the need for realistic contribution rates, whereas one panellist suggests the potential for including genetic resources and broader categories of DSI in the future.

Question 2: The next question concerns “money out”. With the COP15 criteria in mind, I’m particularly interested in your thoughts on: How funding (50%) gets to IPLCs? And the formula for direct allocation to Parties. Any thoughts on how this can happen?

There is broad convergence on the importance of timely, flexible, and equitable fund distribution to IPLCs, capacity building, and leveraging existing mechanisms for efficiency. Divergences lie in the specifics of implementation, including the role of governments, criteria for the allocation formula, and approaches to interim disbursement. These differences reflect varying priorities and practical considerations, underscoring the need for nuanced solutions tailored to diverse global contexts.

Areas of convergence:

Direct and immediate disbursement: There is general agreement that funds should flow to Indigenous Peoples and Local Communities (IPLCs) as soon as possible, even before the formula for allocation is finalized. Many suggest leveraging existing mechanisms or direct access to IPLC institutions to expedite disbursement.

Flexibility in distribution: Most speakers agree on the need for flexible modalities to accommodate the diverse contexts of IPLCs globally. This includes allowing both direct access and access through government channels, depending on local conditions.

Capacity building: There is strong consensus on the importance of building IPLCs’ capacity to access and utilize the funds effectively. This includes strengthening institutional frameworks, governance, proposal writing, and financial management.

Challenges of equity and inclusivity: All speakers acknowledge the challenge of ensuring equitable access to funds, especially in regions where IPLC representation or institutional capacity is weaker. There is a shared concern for addressing disparities in readiness among IPLCs.

Formula development: The development of a formula for fund allocation is widely recognized as critical, with biodiversity richness and capacity needs being central criteria. However, most agree on the necessity of balancing these factors with practical considerations.

Leveraging existing mechanisms: There is agreement on utilizing established frameworks, such as the UNDP Multi-Partner Trust Fund (MPTF), to expedite disbursement while the formula is finalized.

Areas of divergence:

Role of Governments: Some panellists emphasize the need for IPLCs to have the option to bypass governments and receive funds directly, while others point out the potential necessity of government involvement, particularly in contexts where IPLCs lack institutional capacity.

Criteria for fund allocation: Views differ on specific criteria for the allocation formula: two panellists express concerns about potential misalignment if criteria like geographical origin of genetic resources disproportionately benefit non-target countries. One speaker proposes adding historical exploitation

and reporting capacity as factors, while another panellist questions whether the criteria should be additive or separate.

Interim measures: While there is agreement on the need for interim solutions, proposals vary: one speaker suggests a "readiness program" modelled on the Green Climate Fund to help countries prepare for direct allocation. Another speaker advocates immediate disbursement to IPLCs through their existing institutions and funds.

Ambition vs. realism: Two panellists express optimism about immediate funding flows, while another speaker takes a more cautious view, suggesting that significant disbursement may not occur until COP 17 due to the time needed to establish institutional frameworks.

Emphasis on equity: Two panellists stress the importance of ensuring IPLC needs are prioritized in a way that reflects their unique contexts and governance structures. In contrast, others highlight the need to balance equity considerations with practical implementation challenges.

Question 3: The third question is related to non-monetary benefit-sharing (NMBS). Commercial and non-commercial research communities alike consider NMBS as valuable whereas most negotiators seem not to fully understand it and its magnitude. The Cali decision talks about using an existing clearing house under the CBD to facilitate NMBS. How it will work, how it will be resourced and who will serve it? The link with capacity development is clear but how will this happen?

There is broad agreement on the importance of defining, managing, and monitoring non-monetary benefits, as well as fostering capacity building and collaboration. However, differences lie in the scope of discussion, with one panellist bringing attention to the operational challenges of the CHM and the necessity of addressing specific community needs, while another panellist focuses more on capacity-building opportunities and the role of research partnerships in advancing non-monetary benefits.

Areas of convergence:

Importance of non-monetary benefits: Two panellists agree that non-monetary benefits are critical and require substantial work during the intersessional period. They emphasize the need for clear definitions, indicators, and frameworks to manage these benefits effectively.

Capacity building: Both speakers highlight capacity building as essential. One speaker links it to enhancing DSI analysis and joint research, the other underscores the need to develop regional and sub-regional networks to address granular needs, including those of IPLCs, women, and youth.

Monitoring and indicators: Both agree on the necessity of robust monitoring systems. One focuses on indicators to measure non-monetary benefits' contributions to GBF goals, while the other advocates for granular monitoring frameworks to adapt strategies effectively.

Collaboration and research: Both speakers align on the need for collaboration. One stresses joint research and partnerships as ways to level the playing field in DSI analysis. The other echoes this by emphasizing regional and sub-regional capacity-building networks.

Areas of divergence:

Focus on the Clearinghouse Mechanism (CHM): One panellist explicitly discusses the CHM, expressing scepticism about its effectiveness unless adequately resourced and operationalized.

Granularity of approach: While one panellist discusses general frameworks for identifying non-monetary benefits and fostering collaboration, the other focuses on the importance of addressing granular, community-specific needs, including IPLCs, women, and youth.

Tone and optimism: One speaker adopts a more forward-looking approach, emphasizing opportunities for capacity building and collaboration. The other expresses scepticism about the implementation challenges, particularly regarding resource constraints and the CHM's potential inefficiencies.

Question 4: What needs to happen to get the necessary governance structures up and running? A number of you have already mentioned the need for this. What specifically needs to be done? And a second question is how the Cali decision relates to or interrelates with, for example, the International Treaty of the FAO or the Pandemic Instrument of the WHO? What is your view on encouraging greater inter-fora collaboration and if yes, you do support greater collaboration?

The speakers broadly agreed on the importance of governance, industry engagement, harmonization across forums, and urgency in implementing mechanisms for the Cali Fund under the CBD. However, differences arose in their perspectives on the role of industry, the challenges of implementation, and the practicalities of aligning with other agreements. While some are optimistic about achieving these goals, others remain cautious about the logistical and conceptual hurdles.

Areas of convergence:

Governance is key: All speakers emphasize the importance of governance as a foundational element for the success of the Cali Fund and the CBD multilateral mechanism. They agree on the need for transparency, accountability, and effective decision-making in governance structures. There is consensus that the Steering Committee's establishment is urgent and critical for operationalizing the fund and its governance.

Harmonization and collaboration across forums: Speakers agree on the need to avoid duplication and conflicting obligations across international agreements. They emphasize mutual support and alignment between the CBD and other forums, with the CBD serving as a potential default or leading framework.

Role of industry: The involvement of the private sector in the governance and funding process is acknowledged as crucial. Most speakers recognize that industry concerns need to be addressed to ensure their willingness to contribute.

Urgency of action: There is shared recognition of the tight timeline for implementing the necessary governance, funding, and operational mechanisms to avoid losing momentum and stakeholder trust.

Areas of divergence:

Role of industry in governance: One panellist stresses the importance of addressing industry's concerns and giving them a meaningful role in decision-making, without making them de facto shareholders. Another speaker counters this view, emphasizing that companies are not shareholders but participants in fulfilling obligations under a legally binding treaty.

Challenges in implementation: Discussing the logistical challenges of working with the Multi-Partner Trust Fund Office (MPTFO), some panellists emphasise the need for speed and clarity. One speaker focuses more on broader governance principles, such as transparency, timelines, and compliance tracking, without delving into the logistical hurdles.

Interaction with other agreements: One panellist reflects on the practical difficulties of aligning the CBD mechanism with other international agreements, noting variability in how easily alignment can be achieved. Two others emphasize the CBD as a potential default model and stress the importance of mutual support, with one pointing to soft language in current agreements as a limitation.

Optimism about timelines: One speaker is cautiously optimistic, citing the precedent of the Loss and Damage Fund being established within a year. Two other speakers express concerns about delays undermining industry trust and contributions.

Questions from the Chat to the panellists¹:

Question 1: A key question relevant to stakeholders and governments alike was posted at the beginning of the webinar regarding the lack of a **definition of “digital sequence information (DSI)”** and its implications for the multilateral mechanism's operations. The question focuses on whether the absence of a formal DSI definition is a strength or a challenge, particularly in providing necessary guidance to users.

Panellists agree on the current non-definition of DSI as a practical approach to enable progress while focusing on its scope within the multilateral mechanism. However, opinions differ on the long-term implications – with some arguing to maintain ambiguity for flexibility in negotiations, while others stressing the need for clarity to ensure effective implementation and stakeholder engagement.

Areas of convergence

Acknowledgement of the Non-definition: All speakers acknowledged that DSI has not been formally defined within the decision, and recognised the topic remains open for future consideration.

Focus on Scope Instead of Definition: There is consensus that the decision prioritized defining the *scope* of DSI within the multilateral mechanism rather than settling on a universal definition. This includes criteria such as public availability, compliance with national legislation, and absence of benefit-sharing through other international instruments.

Constructive Ambiguity: Several speakers highlight the value of maintaining flexibility through constructive ambiguity, which avoids potential deadlocks in negotiations and allows progress despite differing views.

Areas of divergence

Strategic Ambiguity vs. Implementation Needs: One panellist emphasizes that constructive ambiguity enables flexibility and avoids roadblocks in negotiations, especially given divergent perspectives between developed and developing countries. Another speaker, however, points out that while ambiguity is useful for negotiations, clarity is essential for implementation. Without clear definitions, it becomes challenging to engage stakeholders like companies unfamiliar with ABS or DSI concepts.

Approach to Future Definition: Another speaker notes that the groundwork has been laid (e.g., previous AHTEG papers) if discussions on a formal definition are revisited. Another panellist suggests that leaving the definition open-ended is strategically advantageous to accommodate different perspectives and interests.

Question 2: Two key streams of questions focused on **stakeholder involvement** rather than government actions during the negotiations. Questions centred on whether IPLCs, as custodians of biodiversity, were adequately included in the negotiation process and whether there were sufficient opportunities for them to share their views. Similar concerns were expressed about industry, as the primary contributor to the fund, and whether or not industry had sufficient opportunity to engage in exchanges and ensure their perspectives were integrated into the decision-making process.

One panellist emphasizes that companies have shown willingness to contribute to the mechanism, but enabling conditions must be strengthened. Companies need clear arguments to gain internal buy-in, similar to governments coordinating across ministries. Another speaker highlights a systematic study revealing significant willingness to pay among companies, with

¹ All chat contributions are provided in Annex 1 of the report.

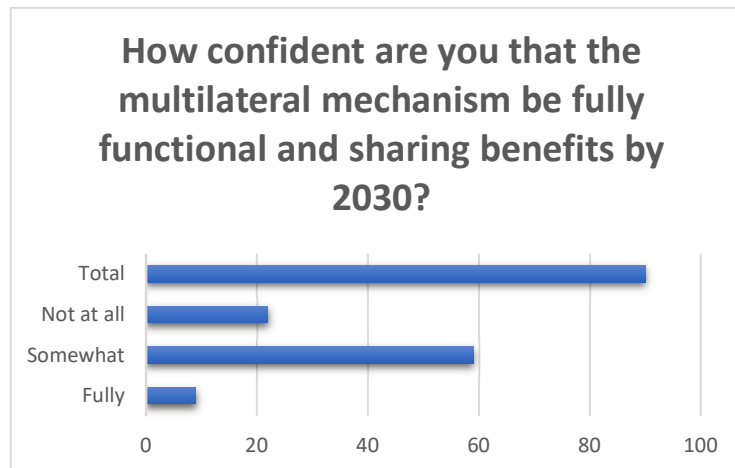
results aligning with the need for supportive conditions to ensure broad industry participation and the mechanism's success.

Closing Remarks

Suhel al Janabi, ABS Capacity Development Initiative thanked the panellists and participants for their contributions, acknowledging the ongoing work required by Parties and stakeholders on submissions to the CBD Secretariat, including topics like SME standards, database tools, and nominations for the Steering Committee and Technical Expert Group. He expressed gratitude for the discussions on the "building blocks" and emphasized the importance of collaboration between governments, industry, IPLCs, and researchers for successful implementation. He concluded by reminding everyone about the upcoming poll and evaluation, and wished all a Merry Christmas.

Poll: How confident are you that the multilateral mechanism will be fully functional and sharing benefits by 2030?

Before leaving the webinar 90 participants indicated in a short poll their degree of confidence that the MLM will be fully functional by 2030. The majority indicated at least some confidence:



Annex 1: Chat contributions in consecutive order

Chat contributions listed as bullet points are direct responses of participants to questions or comments of other participants.

We understood that the first step in accessing biodiversity was to negotiate with the government that has protected and promoted biodiversity. Please clarify. Who is paying what to whom to access benefits of biodiversity? How will those who wish to access biodiversity negotiate for access to it? How will we prevent the violence that will follow if developers try to access biodiversity without an agreement to do so with the custodian government?

I like the building block metaphor. Ever since biblical times, we know not to build upon sand. DSI is not officially defined. Please make clear whether it is de-materialized genetic resources?

Which governments of Indigenous Peoples negotiated this document?

How should Parties tweak their ABS regulations to be able to be in a position to receive benefits from MLM?

Pierre highlights Provision 10 of Decision 15/9, which does not address “fungibility” (aka “adverse selection”). Fungible projects will not enhance conservation and sustainable development. Why has fungibility, discussed at length in the literature including that from the ABS Capacity Development Initiative, not been discussed?

Lol @Pierre's reference to the Holy See. Yes, because that is the government they're referring to.

All users are obligated to share without discrimination whether they are in competitive and non-competitive markets (monopoly intellectual property)? A flat percentage whether the demand for the good is elastic or inelastic, violates the Ramsey Rule of Public Finance and therefore is both inefficient and unfair. The Decision 15/9 ignores this basic economics. Why?

Did CBD decisions violate the UN Charter that is based in the self-determination of peoples? Peoples who have developed biodiversity since time immemorial have the right to use all necessary force to defend their government as they seek to uphold the rule of law. How will multilateral organizations act to police the CBD and other aggressors that wage war on the custodians of biodiversity, upon whom human survival depends?

According to E.O. Wilson, species are going extinct at a rate of every 20 minutes. How much biodiversity will be left by the time ABS is finally resolved?

Did negotiators actually talk to companies whether they will be willing and able to contribute voluntarily to the Cali Fund with no (or very limited) incentives?

Companies do not only free-ride. They also easy-ride. If there is a flat low percentage, a good of inelastic demand, say, a life-saving pharmaceutical with no substitute under patent, would be obligated the same as a non-life-saving generic drug with many substitutes. In essence, Decision 15/9 shifts costs through spreading them thin.

Any agreement to accessing the benefits of biodiversity, in accordance with the UN Charter and the laws of nations, must be led by the governments that have cultivated and defended that biodiversity since time immemorial. How does this initiative for newcomers to access the benefits of diversity protected by others uphold the rule of law and promote peace?

@Hugo Schally: Does this mean, in your personal view, that the EU's Corporate Sustainability Due Diligence Directive which in Part II refers to the Convention on Biological Diversity and the Nagoya Protocol, does not extend to the DSI global mechanism?

Conservation and sustainable use projects do not necessarily reduce the drivers of extinction. How does the Decision 15/9 incentivize living within limits on land use? For example, not expanding the agricultural frontier in the Amazon, not damming rivers, not draining wetlands, etc?

Geographical origin supports transparency in science and has utility in creating opportunities for collaboration not just informing distribution processes for the Cali Fund

Half of an infinitesimal amount is twice as infinitesimal. The 50% share may distort perceptions by IPLCs.

Yes Indeed , Eduardo is right by suggesting to take model / example from GCF allocation.

This sharing assumes that there is no fungibility, i.e. no portion of the funded project would have been funded anyway.

Local Communities are found in all countries, How do we support sub-national governments to get its local communities more organised?

How would this work for MNCs that have presence in multiple counties

Are there any discussion related to defining who of the IPLC are eligible and how to be delivered?

To the speakers: On the Steering Committee: Is it "fair and equitable" to list 7 very diverse industry sectors that should pay many millions, but allow only 2 representatives as "observers" out of 30 members, where half are governments and 7 are IPLCS (one from each sociocultural region). To ensure a true public-private partnership , there should be parity. No taxation without representation?

What is needed in COP 17 is the clear definition of DSI so that countries can identify their respective companies that are eligible for contribution to the CF

Is there any progress for the thought about MGR-ABS in BBNJ?

- Thanks!

I beg to differ on Mr. Schally's statement that the obligations established under Part 2 of the BBNJ Agreement are less developed than those under the CBD just because the BBNJ Agreement is not in force. After the DSI Decision at CBD COP 16, there are some areas where CBD has more detail currently, but there are other areas where the BBNJ Agreement has more or different detail. As has been mentioned multiple times, the CBD DSI framework is not legally binding, while the BBNJ Agreement is - and has clear obligations - so engagement at eye level on synergies and interactions may be advisable?

- Thank you

Would there have been a Decision 15/9 much less one to operationalize it had the decisions been legally binding?

- You are right there would not have been one .

Companies have an incentive NOT to contribute: profits. It's voluntary.

Hi there, thank you for your nice presentation. ... We are so interested in benefits of DSI for global socio-economic living, but our genebank is lack and limit of facility and infrastructures to implement the ambitions in "...". How could our genebank reach and get technical and financial supports from you as well as how its inclusive private partners? We are ready for these progresses.

Despite CBD's first mover advantage, there is a paradigm shift from a binding (Nagoya) to a non-binding regime. However, a non-binding regime would inspire a binding system such as under the BBNJ remains to be seen.

Why should companies be incentivised to contribute to the fund? Are companies wanting monetary incentives or non-monetary incentives? What might those look like?

- When companies speak of incentives, they are not necessarily referring to tax deductions. A minimum is legal certainty that payment to MLM provides freedom to operate (FTO). FTO

- = legal certainty that the certificate is globally valid that national ABS laws have been complied with; that patent filings are unobstructed; that product marketing authorizations not at risk; that there is no risk of non-compliance in user countries etc.
- An important incentive for many companies would be an ABS system that covers both physical resources and DSI, as an alternative to the dysfunctional and onerous Nagoya Protocol.
- It seems a bit counterintuitive for countries to pay companies (through tax relief or other financial incentives) to contribute to a fund.
 - I fully agree, and that's not what companies are asking.
- FTO and legal certainty is subject to each nation's laws. Contributing companies can at the very least demonstrate that they have made a contribution...I don't see how that will be viewed in a negative light esp in a voluntary system.

Lack of trust is systemic. Should we not design a system that relies as little as possible on trust?

Communication strategy should be important for all stakeholders (including companies) to ensure a great and full understanding on DSI and related benefit-sharing

I've heard "up to 50%" in reference to the allocation for Indigenous Peoples and Local Communities a few times. Decision 16/2 specifies at least 50%!

If DSI is not dematerialized GR, how would there ever be legal certainty? One could claim that an obligation still exists on whoever dematerialized the biological matter that resulted in the DSI.

It is only the national authorities that may provide a License to Operate meaning operating in their jurisdiction; but the COP could develop a SMTA that may be used by national authorities

"Local Communities" is not defined but it has acquired a special meaning of its own that links it to some features that overlap with Indigenous Peoples, especially with reference to lifestyles, traditional knowledge, worldviews, and stewardships of biological diversity

For example, India's 2024 Biodiversity Rules, in force from 25 December 2024, require foreign companies (not Indian companies!!) to seek authorization from the Indian Authority for "any invention based on digital sequence information accessed from repositories outside India" --> so are public databases under the MLM in, or out of scope? Is this the first example of stacking obligations? If a company paid into the MLM, does it still need to pay to India? If I still have to pay to India, why into the MLM? Rinse and repeat for 142 Nagoya Parties and 196 CBD Parties.

Although the chat is mainly for questions, I would like to use it to thank the webinar organisation team and all the stakeholders and experts active. The mix of preparation for COP16 and what comes next and how interactions between and harmonisation of treaty systems could look like is extremely valuable. It is also important that the webinar reflects the process nature. This will help to avoid frustration and create a community spirit to support this process. Thank you very much! (Jens from and on behalf of the DSI Scientific Network)

When Indigenous Peoples push against association with local communities, that is highly legitimate political and legal concerns, but sometimes that comes at the expense of substantive issues that resonate with both Indigenous Peoples and local communities in this space.

Before we define non-monetary benefits, shouldn't we prioritize reaching a consensus on an official definition on DSI (and the appropriateness of that term or an alternative for the placeholder) and traditional knowledge? Both DSI and TK are not officially defined.

The NMB indexes discussed seem very bilateral, how can we make it multilateral? Isn't providing DSI to open-access genebanks some sort of benefit-sharing which should be accounted for? Considering scientists spending their research funding on the extraction and generation of the information?

- I agree with you Rebecca

In principle, benefit-sharing should always be based on agreed terms. Non-monetary benefit-sharing that is not based on agreed terms would simply be a "gift". But a gift is not benefit-sharing.

Is there going to be more webinars like these to continue the discussion(s)? Because I feel we are going to need a part 2! (3..4..)

Thanks to the panels! There will be more opportunities to discuss the outstanding questions and also the many contributions in the chat!

An official definition of DSI: If not now, when? (Hillel).

Does paragraph 1 require users to check whether any DSI they use is compliant with national ABS laws?

2018 AHTEG on DSI reached consensus that DSI is not the appropriate term. The cart is before the horse.

Measuring existing status quo activities doesn't move the needle for IPLCs looking for NMB. I think activities like collaborations and authorship will emerge as downstream impacts of activities. As mentioned NMB incurs a cost so has a value whether that be capacity building or some other environmental initiative. Those contributions could be monitored, and will be primarily bilateral arrangements but there could be regional or global initiatives developed to support or coordinate multilateral NMB initiatives.

Para 1 scope is highly problematic

If I print the sequence information, am I out of scope? If I film, am I out of scope? Is DSI the appropriate term?

For anyone interested, a comprehensive (yet non-exhaustive!) list of non-monetary benefit sharing activities undertaken by the private plant breeding companies was shared during COP16, and is available here: <https://www.cbd.int/conferences/2024/virtual-tables/publications>. You can also directly access the document here: <https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:62156a17-be15-47bd-bfca-10f6067df4cb>

Also, as business, you're damned if you do, or damned if you don't. There needs to be true trust in the private sector that we are not "the other" but should be a true, equal party to all of this. <https://www.theguardian.com/environment/2024/nov/13/meat-oil-and-pesticide-industry-lobbyists-turned-out-in-record-numbers-at-cop16>

Contributing to the Cali Fund will contribute to a Social License to Operate which bolsters a FTO.

Annex 2: Presentation “Building the Cali Fund multilateral mechanism for DSI benefit-sharing: An initial overview of some key construction sites” by Pierre du Plessis



THE ABS
CAPACITY
DEVELOPMENT
INITIATIVE

L'INITIATIVE DE
RENFORCEMENT
DES CAPACITES
POUR L'APA

Building the Cali Fund multilateral mechanism for DSI benefit sharing: *An initial overview of some key construction sites*

Global webinar to reflect on the CBD COP16 decision on DSI : what [needs to] [could]
[should] happen next?
12 December 2024

Pierre du Plessis, ABS Capacity Development Initiative

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Foundations, building blocks, blueprints, tools

**“further develop” “operationalize” “finalize” “explore
additional modalities” “possible new tools and
models” “formula” “review” – by 2026? 2028? 2030?”**

- The Cali Fund DSI multilateral mechanism, like the KMGBF of which it forms part, is a work in progress and will remain so for years to come
- This webinar cannot deal with everything that still needs to be done and therefore focuses on trying to identify the most urgent priorities
- Some tools are familiar: submission and synthesis of views, studies, consideration by SBI, expert groups, ...
- Some are new and unfamiliar, e.g. the “9 + 1” criteria in Decision 15/9



7

The DSI Nine Plus One (DSI 9+1)



Solution for fair and equitable benefit-sharing on digital sequence information on genetic resources should, inter alia:

Decision 15/9

- Be efficient, feasible and practical
- Generate more benefits, including both monetary and non-monetary, than costs
- Be effective
- Provide certainty and legal clarity for providers and users of digital sequence information on genetic resources
- Not hinder research and innovation
- Be consistent with open access to data
- Not be incompatible with international legal obligations
- Be mutually supportive of other access and benefit-sharing instruments
- Take into account the rights of indigenous peoples and local communities, including with respect to the traditional knowledge associated with genetic resources that they hold

KMGBF Goal C

Monetary and non-monetary benefits from the utilization of genetic resources and digital sequence information on genetic resources, and of traditional knowledge associated with genetic resources, as applicable, are shared fairly and equitably, including, as appropriate with indigenous peoples and local communities, and substantially increased by 2050, while ensuring traditional knowledge associated with genetic resources is appropriately protected, thereby contributing to the conservation and sustainable use of biodiversity, in accordance with internationally agreed access and benefit-sharing instruments.

Construct 1: Money IN



Building blocks:

- **“all users ... should share”**
- **Indicative rate: 1% of profits or 0.1% of revenue (large users in selected sectors)**
- **Bilateral ABS, other instruments excluded**
- COP Decision not legally binding:
 - Seed funding?
 - Positive and negative incentives?
 - “Coalition of the willing” companies (and countries?) to take lead?
 - Legal uncertainty for users?
- Setting and applying thresholds:
 - Relevant in non-binding system?
 - Sources of information? Who reports, to whom? Monitoring/verification?
 - Consequences for non-compliance?
How to handle limited, specific use by companies not “highly reliant”?
- Actions by DSI databases to publicise MLM and raise awareness?
 - Disclaimer? Newsletter?

Construct 2: Money OUT



Building blocks:

- **“Transparent, effective, accountable”**
- **Formula for country allocations TBD by COP 17**
- **Up to 50% for IPLCs**
- Transparent, effective, accountable:
 - Preconditions for money coming in?
 - 50% to IPLCs – administrative and reporting obligations?
 - National oversight? How? At what cost?
- Formula for direct allocations to Parties:
 - Dividing national allocations for shared (transboundary) ecosystems?
 - Receiving and using national allocations: any rules?

Construct 3: Non-Monetary Benefit Sharing



Building blocks:

- **“all users ... should share”**
- **Complementary to monetary benefit sharing**
- **Self-identified needs, builds on ongoing activities, facilitated through “an existing clearing house”**
- “through an existing clearing-house under the Convention”:
 - Which CH? What features/changes required?
 - Who will develop modalities/procedures in multilateral logic ?
 - Delineation/links to capacity development and technology transfer?
 - How will monetary costs of NMBS be handled?
- Self-identified needs:
 - Process?
 - Criteria?
 - Support (especially for IPLCs)?

Construct 4a: Governance in CBD



Building blocks:

- **Steering Committee, COP authority and guidance**
- **Data governance – FAIR, CARE, TRUST, UNESCO – but NOT under COP**
- **Review at COP 18 against Decision 15/9 criteria**
- Under authority and guidance of COP:
 - To be renegotiated from scratch every 2 years?
- “[Parties][Other Governments] funding, sponsoring or hosting sequence databases”:
 - How to get The Holy See to comply with the encouragement?
- User Certificates:
 - How will these interact with national legislation on DSI to achieve “no duplication of expectations to share benefits”?
- Steering Committee:
 - How will the “methodology for review” be initiated? Who sets agenda?

Construct 4b: Use by other instruments



Building blocks:

- **“mutually supportive of and adaptive to”**
- **“operations of the multilateral mechanism will be financed by the global fund”**
- “Mutually supportive of and adaptive to other international instruments”:
 - Cali Fund “will be”, while other instruments are “invited to” - how to reconcile this with single integrated DSI ecosystem?
 - Payment delineation by sectoral DSI product?
 - How to handle BBNJ ?
 - How and by whom will conflicts be addressed?
- If “any other intergovernmental forums decide to ... use the MLM ... the funding should also support realization of their objectives”:
 - How will the funding be divided between CBD/KMGBF and others?