



## Informal Retreat on Digital Sequence Information (DSI)

*18 to 20 September 2024, Pretoria, South Africa*

Organized by the ABS Capacity Development Initiative  
on behalf of  
the South African Department of Forestry, Fisheries and the Environment (DFFE) and  
the Norwegian Government

Hosted by the Government of South Africa

## REPORT

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<sup>1</sup> Disclaimer: This report was prepared for the use and benefit of the participants of the DSI Retreat in Pretoria, South Africa, 19<sup>th</sup> to 20<sup>th</sup> September 2024, and it is provided for information purposes only. It contains a compilation of the participants’ contributions and discussions. The report, however, does not purport to reproduce all debates and interventions in full. According to the Chatham House Rule, under which the informal retreat was held, the information provided is not attributed to the source. The presenters are, with their explicit permission, identified in the report. The statements in this report do not represent the views or opinions of the GIZ, the Governments of South Africa and Norway or the cooperation partners of the GIZ. The Secretariat of the ABS Initiative does not assume any liability for the accuracy or completeness of the report.

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## Short overview and outcomes

On behalf of the South African Department of Forestry, Fisheries and the Environment (DFFE) and the Norwegian Ministry of Climate and Environment, with support from the governments of Germany, Switzerland, The Netherlands, Norway and the United Kingdom, the multi-donor funded ABS Capacity Development Initiative (ABS Initiative) organized the *Informal Retreat on Digital Sequence Information (DSI)*, hosted by the Government of South Africa. The Retreat was held at *Kievits Kroon Estate, Pretoria, South Africa*, from 18 to 20 September 2024.

The main objective of the DSI Retreat was to take stock of the state of DSI negotiations following the 2<sup>nd</sup> Meeting of the Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources (OEWG DSI 2) in August in Montreal and to provide negotiators with an opportunity for informal discussions ahead of the 16<sup>th</sup> Conference of the Parties of the Convention on Biological Diversity (CBD COP 16, scheduled for 21 October to 1 November in Cali, Colombia) at which the new multilateral mechanism for sharing benefits arising from the use of DSI (MLM) is to be finalized (see <https://www.cbd.int/doc/decisions/cop-15/cop-15-dec-09-en.pdf>).

The Retreat was preceded by a “relay” meeting on 18 September with DSI users from the private sector and public research institutions, who met on 16 and 17 September at the same venue to discuss and elaborate key messages from DSI users to negotiators and policy makers in the run-up to the COP 16. The Retreat started by taking stock of the outcomes of OEWG DSI 2 and discussing main outstanding / unresolved issues, and identifying elements of convergence for the decision on DSI for COP 16.

Based on Annex 1 of the draft decision coming from OEWG 2 participants discussed in depth the following questions, leading to increasing convergence of views in many areas.

**1. What kind of users need to share benefits?**

**2. Users from which countries are to make payments – and should there be exemptions?**

**3. On what basis should contributions be made to the global fund?**

**4. Which users should share non-monetary benefits – and should these same users also share monetary benefits?**

**5. What can COP realistically do to change data governance practices of public databases?**

**6. How can developing and reviewing a formula be made compatible with the agreement to operationalise the MLM at COP 16?**

**7. Who will administer the fund – and how will this impact governance of the fund?**

(e.g. SCBD, GEF, Multi-Partner Trust Fund Office of the UN (MPTF), Regional Development Banks ...)

**8. What is the relationship between the MLM of the CBD and other international ABS instruments?**

Participants agreed to focus the concluding discussion on the way forward to a COP Decision on the following three key topics which they saw as critical to operationalise the MLM at COP 16 as agreed in COP Decision 15/9:

- **Contributions to the fund:** Which elements of the different options, be it alone or in combination, will best support practical implementation ("money in")?
- **The formula:** Guided by the DSI 9+1 criteria, which combination of elements are needed for developing the formula ("money out"); project / allocation approach?

- **Issues of scope, including relationship with other instruments:** What policies and measures need to be agreed upon to ensure mutually supportive implementation?

Results of the group discussion are documented in Annex 6 of the report and the reflection on the outcomes of the group work are summarised as follows:

- **Timeline Concerns:** Participants are worried about meeting the deadlines and favoured a step-by-step approach, especially for technical aspects like benefit-sharing formulas.
- **Resource Focus & Coordination:** Capacity building is a priority, with calls for coordination between neighbouring countries. Standardized methods to avoid multiple payments (e.g., receipts) were suggested.
- **Flexibility & Disbursement:** Discussions included flexibility for future expansion to genetic resources (GR), interim solutions for disbursing funds, and a focus on early beneficiaries like Indigenous Peoples and Local Communities (IPLC).
- **National Implementation:** Clear national guidelines are needed for companies to comply with the system.
- **Benefit-sharing Triggers:** A flexible approach to capturing a broad base of key users was preferred, with ideas to combine elements of different options proposed in paragraph 3 of Annex 1 of the draft decision on DSI of OEWG 2.
- **Iterative Approach:** A step-by-step implementation is suggested, with interim solutions for fund disbursement before finalizing all technical details.
- **Challenges in Fund Management:** Political challenges exist around disbursement schemes and formulas, though technical issues are manageable. A pilot phase was suggested, starting with one sector.
- **Commitment to Implementation:** There is strong dedication to operationalizing the mechanism post-COP 16, with participants ready to implement immediately.
- **Involvement of IPLC:** IPLC should be prioritized for initial fund disbursements as the system develops.
- **COP 16 as a Milestone:** Progress at COP 16 is crucial, focusing on practical and feasible steps to implement COP Decision 15/9.

## “Relay” of user messages to key negotiators

The “relay” session before the negotiators’ retreat provided commercial and non-commercial users of DSI the opportunity to convey to negotiators messages for consideration when discussing and agreeing on a solution for the operationalisation of the Multilateral Mechanism for Sharing the Benefits from the Use of DSI (MLM) at COP 16 in October 2024. The messages had been developed during the preceding DSI Exchange among users who met at 16 and 17 September at the same venue (see separate report<sup>2</sup>).

### Official Welcome to the Relay

Representatives of the donors, the host, and the organisers of the relay between the DSI Exchange and the DSI Retreat welcomed the participants.

Gaute Hanssen of the Norwegian Ministry of Climate and Environment of Norway highlighted the importance of such informal exchange before COP 16 and the significant progress which has been made since the first Global Dialogue in November 2019 in Pretoria.

Katie Beckett of the UK Department for Environment, Food and Rural Affairs (DEFRA) highlighted the significant and useful contribution of the ABS Initiative to the discussions on difficult topics. She is looking forward to continuing the necessary informal exchange and thanked especially the users for investing their time to participate in these exchanges.

Verena Stöckigt of the German Embassy, expressed on behalf of the Federal Ministry for Economic Cooperation and Development (BMZ) gratitude to DFFE for hosting the dialogue highlighting the German contribution to biodiversity conservation and sustainable use, including ABS and DSI and the long-standing support to the related capacity development, incl. dialogue and exchange events.

Nick Bosmans of the Embassy of The Netherlands thanked South Africa for hosting the event, as well as the ABS Initiative and the other donors. He highlighted that DSI is an important topic for the Netherlands, especially open data and wished good luck to participants for achieving the expected result at COP 16.

Flora Mokgohloa, Deputy Director General Biodiversity and Conservation of the South African Department of Forestry, Fisheries & Environment (DFFE), acknowledged the donors of the ABS Initiative and expressed her hope that the dialogue will help to overcome the still significant different views between Parties to the CBD related to DSI. She referred to the strong African position on DSI related to benefit-sharing in the light of its rich biodiversity and climate change related threats to this biodiversity. In concluding she pointed to South Africa’s commitment to the international CBD process by providing a cochair for the DSI Working Group.

### Technical Introduction

Kathrin Heidbrink, co-facilitator of the event, provided a brief overview about the agenda of the Relay (see Annex 1) and reminded participants that the meeting would take place under the Chatham House Rule<sup>3</sup>.

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<sup>2</sup> For details how these message were developed and for more details, such as inputs and flipcharts with graphics see the separate report about the User’s Exchange available at [ABS Biotrade: Digital Sequence Information on Genetic Resources \(abs-biotrade.info\)](https://abs-biotrade.info).

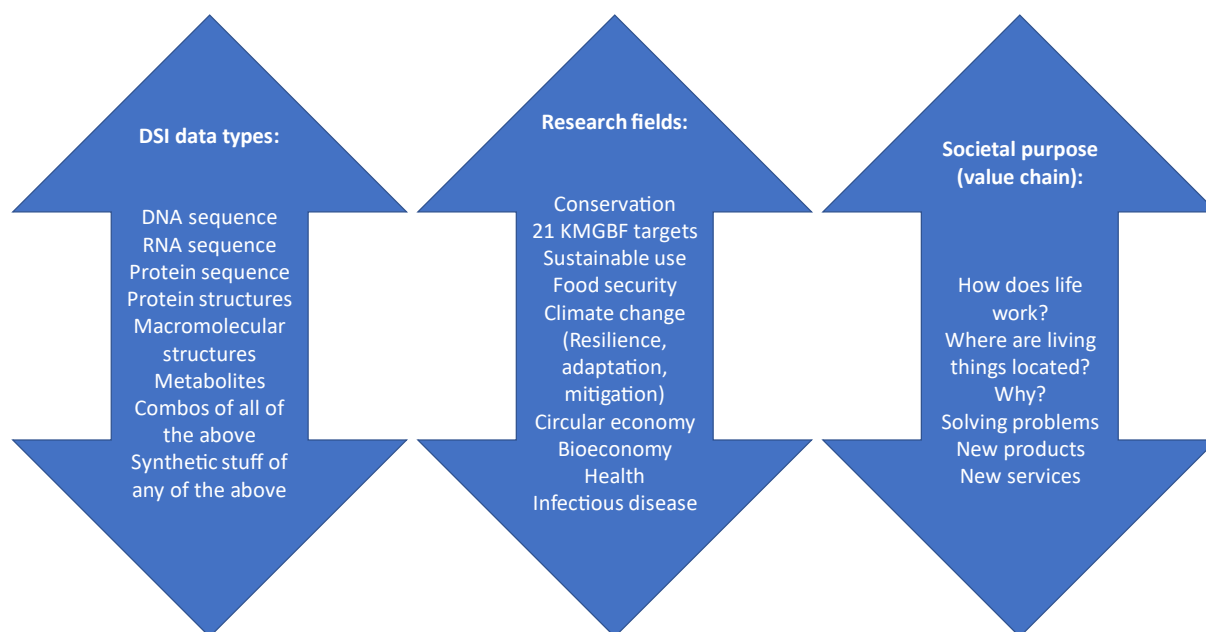
<sup>3</sup> When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.

## Outcomes from the User's Exchange

Suhel al Janabi of the ABS Capacity Development Initiative provided a short overview of what was discussed during the DSI Exchange (see Agenda in Annex 1). He pointed out that beside commercial and non-commercial users of DSI a small number of resource persons, including a few negotiators, participated in the Exchange.

### DSI-versity

Amber Scholz of the Leibniz Institute German Collection of Microorganisms and Cell Cultures (Leibniz DSMZ) illustrated based on the discussions at the preceding Exchange the diversity of DSI uses by using three axes to sort the “DSI-versity” according to (1) DSI data types (molecules in cells), (2) research fields, and (3) societal purpose (value chain) (for further details see her presentation in Annex 2)



DSI can be used in many different ways. To illustrate this, it was noted that each topic within an axis can be combined with any topic in the other two axes and a relevant DSI research question can be generated, such as:

- (1) We want to take a toxic waste product and biologically transform it into a useful product.

Here, a researcher would use “protein sequences” in support of the “circular economy” and “bioeconomy” in support of “solving problems”.

- (2) Is the unknown fish an endangered species?

In this example, a researcher would use “DNA sequences” in a research field related to the KMGBF and Target 4 (for example) and working on the societal purpose “how does life work”.

- (3) How are antibiotic-resistant bacteria evolving?

For this question, you would need a combination of DNA, RNA and likely protein or even metabolite data to understand research related to infectious disease and it is based on an understanding of “where are living things located”.

The figure helps to show how diverse the different types of uses might be.

The answers to clarification questions of the negotiators highlighted how DSI is applied in conservation and sustainable use, addressed the linkage between non-commercial and commercial uses and global disparities in capacity. Key points include:

- **Conservation Applications:** DSI is used in a wide range of conservation efforts, such as forensic research, identifying genetic markers in wildlife, assessing genetic flows, improving crop resistance, and cleaning up environmental damage through microbial analysis. It helps monitor soil health and track species that are more resistant to environmental changes. DSI also supports the recovery of disappearing livestock breeds, such as tropical cows and chickens.
- **Sustainable Use Applications:** DSI is used to identify fish populations for sustainable fishing, assess biodiversity recovery in agroforestry through environmental DNA (eDNA), and provide agricultural strains for more resilient farming practices.
- **DSI Value Chains:** DSI enters value chains differently depending on its use. Non-commercial users, such as research institutions, publish their findings, which may later be used by companies to develop products. Private databases may complement public databases in these developments. Non-commercial users often contribute to knowledge generation without directly registering patents or creating commercial products.
- **Geographical Use and Capacity Gap:** DSI use tends to occur within the regions where it is sourced. However, low- and middle-income countries publish fewer studies due to a technology and capacity gap. Public funding often supports DSI use, especially in non-commercial contexts, where outcomes include knowledge creation rather than immediate revenue. Some companies focus on increasing shareholder value instead of direct revenue, which adds complexity to negotiations on benefit-sharing.

In essence, DSI is vital for both conservation and sustainable use, but there are significant capacity gaps and complexities in how DSI is utilized across different regions and industries.

## Main unresolved issues from the perspective of users, and resulting messages

### User messages to negotiators:

#### Scope

- Users need enough information on scope to be able to practically implement their participation in the MLM and resulting obligations.
- There is a proportional relationship between breadth of scope and value (amount that could be paid) of that scope. A broader scope is “worth” more.
- Revenue predictions (e.g. KPMG study<sup>4</sup>) are based on the biggest circles. If you want larger funds, the scope circles need to be big!!!
- We are willing to share monetary benefits for a “licence-to-operate” with a broad scope = broad value.
- We need to start a journey together with a vision for a stepwise evolving approach to a successful MLM.

#### Money IN (Group 1)

- Ensure a low fee so as to NOT eliminate the incentive to innovate in solutions addressing the SGDs. Enable innovation.
- Consider contribution from all entities that benefit, rather than just some users.
- Ensure that users have an all-encompassing assurance of ABS compliance under both national and international law within the scope of the MLM, starting with DSI.
- Consider as a minimum an opt-in by providers to include physical GR.
- Ensure that the modality enables easy and swift payments.

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<sup>4</sup> For details see [wgdsi-02-inf-01-en.pdf \(cbd.int\)](#)



- DSI MLM components: (1) Global Fund (2) NMBS

#### Money IN (Group 2)

- Take care not to trap small businesses in an overregulated system that stifles them with requirements that are difficult for them to comply with.
- Design the system so that users from all countries can contribute to the fund through the MLM, to have a broad payer base and ensure a level playing field.
- Ensure that the MLM has strong incentives for user participation. This means providing broad licence-to-operate throughout the R&D process.
- Compliance with the MLM should be recognised by all participating countries as being compliant with equivalent national obligations.
- The material scope of the licence-to-operate should be as broad as possible (capable of including all non-human DSI and GR).
- Countries also need strong incentives to participate in the MLM. The more countries participate, the broader the licence-to-operate.
- Ensure clarity who should pay, how much, when, to whom and why so that contributors understand how to comply.
- Ensure contribution levels are affordable and proportionate to value and to capacity of contributors to be economically viable for all stakeholders.

#### Money OUT

- Capacity development and technology transfer is important and should consider local needs. A multilateral NMBS voluntary match-making platform would be contributing to this.
- Consider a strategy for fund disbursement that addresses the Goals and Targets of the KMGBF, specifically relating to capacity building for generating, sharing and using DSI
- The fund disbursement strategy should be transparent, flexible, adaptive, effective, and synergise MBS and NMBS.

#### Discussion between users and negotiators of outcomes of the Exchange (messages) and implications

The session was split in two parts, a one hour of fishbowl discussion<sup>5</sup> and a plenary discussion of some key topics that had been mentioned repeatedly in the fishbowl.

**The summary of the fishbowl discussion** reflects a wide range of concerns, focusing on practical implementation, benefit-sharing structures, ethical considerations, and the capacity gaps between countries:

- **Implementation & Fragmentation:** There are differing definitions of DSI, with calls for a globally uniform system that is simple, affordable from user's perspectives, and legally certain.
- **Incentives & Payments:** Concerns about when payments are due and how to incentivize commercial users. Companies seek clear guidelines to avoid double payments under bilateral and multilateral systems.
- **Capacity Gaps & Practicality:** The MLM should help bridge capacity gaps. Users need practical solutions, but ambiguity in DSI definitions leads to varying interpretations.

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<sup>5</sup> The "fishbowl" method allows for an open, self-organised plenary discussion: All participants stand around a circle of chairs (the fishbowl) in which the discussion takes place. Everyone can participate - with only one rule: Speaking is only allowed while sitting on one of the chairs in the circle. That is, any participant who would like to make a statement can do so by taking a seat in the fishbowl. When the statement is finished, the person gets up to free the chair for other participants.

In this case, there were two chairs for the facilitators, plus four chairs for participants. A time limit of 90 seconds per statement was introduced, which led to a lively participation with a broad exchange of views.

- **Conservation & Public Health:** Low payments may limit conservation impact. Public health research may struggle to contribute financially.
- **Ethics & Justice:** Using genetic resources should involve fair compensation to resource owners, as per CBD principles.
- **Delays & Solutions:** Frustration over delays; suggestions for easier implementation, financial/economic expert involvement, and flexible options for different user groups.
- **Benefit-Sharing:** Non-commercial users are open to sharing knowledge and technology, but research grants often prohibit the latter.
- **Funding & Matchmaking:** Calls for expanded funding sources, ringfencing funds for capacity building, and a platform such as the ABSCH to match users for collaboration.
- **Private Databases & Governance:** Specific regulations also needed for private databases, with ABSCH suggested as a platform for better data governance and compliance.

The subsequent **plenary discussion** was structured by two “burning questions negotiators have for users” regarding “Views on Options A to D” and “What does industry mean by Licence-to-Operate?”.

Key concerns and considerations raised by negotiators and users regarding scope and payment options embedded in Options A to D:

- **Combination of Options:** There is broad support for combining different options, particularly Options A and B, to reflect the varying intensity of DSI use and the differences between companies in scale and structure.
- **Payment Mechanism:** Users suggested payments into a fund could be based on sales, which are audited and numbers often public, rather than profits, which are more volatile. There are concerns about avoiding duplicate payments, particularly when bilateral payments under Nagoya Protocol rules have already been made.
- **Licence-to-Operate:** Questions arise about the implications of the licence-to-operate model and what ideal conditions would look like for its implementation.
- **Industry Concerns:** Industry representatives are wary of potential loopholes that might emerge from combining options and are concerned about increased transaction costs, particularly for SMEs. Ensuring clear, well-defined rules for DSI is a priority.
- **Pilot Programs:** A suggestion was made to pilot Option A for pharmaceutical products, ensuring that no further payments are required if bilateral payments have already been made.
- **Transaction Costs:** SMEs highlighted the importance of keeping transaction costs manageable, as the Nagoya Protocol is already seen as complex.

The concept of a licence-to-operate is centred around creating legal certainty for users who pay into the MLM, freeing them from the complexities of national ABS regulations, though practical challenges—like double payments and treaty overlaps—remain to be solved:

- **Key Concept:** A licence-to-operate implies that once payment to the MLM is made, users would have legal certainty and the right to use DSI freely, regardless of national ABS laws.
- **Legal Certainty & Governance:** Legal certainty is crucial for companies to develop products and applications. This would involve ensuring that DSI published in international databases (like INSDC) complies with national laws. However, about 40 countries have already incorporated DSI into their ABS legislation, complicating the process.
- **Challenges of National vs. Multilateral Systems:** There is a strong suggestion from companies that making payments to the MLM should exempt them from national payments. Currently, no country proposes this exemption. The challenge of separating Genetic Resources (GR) and DSI use across multiple fora (CBD, FAO, etc.) may raise the risk of double payment.
- **Payment Timing and Scope:** Questions arise on the timing of payment and how it relates to the licence-to-operate. There is a suggestion of a system where users would have a licence-to-operate while paying on an ongoing (yearly) basis, with payment amounts varying by sales.

- **Intersection with Other Treaties:** There is a concern over how the MLM will interact with other specialized DSI agreements (like those in FAO or WHO). Transparency between different instruments is essential to avoid double payments and maintain consistency across treaties.
- **Upload of DSI:** Some argue that concerns over illegally uploaded DSI are minimal, as it can be traced back to the uploader and prosecuted under national law.

## Official Opening of the DSI Retreat

Taukondjo Shikongo of the Secretariat of the Convention on Biological Diversity (SCBD) reminded participants that the DSI journey began in Cancun with the creation of the open-ended inter-sessional working group established under COP Decision 14/34 to support the preparation of the post-2020 global biodiversity framework which was also mandated to consider the outcome of the AHTEG on DSI. Instead of going through SBSTTA or SBI the topic went directly to the COP after being considered by the Working Group. The fact that the issue is not being considered by SBSTTA or SBI denotes that this is not about the science of DSI but about the equitable sharing of benefits from the use of DSI. COP 15 focused on six potential policy areas, with the main debate being whether benefits from the use of DSI should be shared. In Decision 15/9 COP agreed to share benefits from the use of DSI fairly and equitably and to establish a multilateral benefit-sharing mechanism (MLM) from the use of DSI, including a global fund, as part of the 2020 Kunming-Montreal Global Biodiversity Framework (KMGBF). This was hailed as a major global win for multilateralism.

Key questions arose about fund contributors, hosting of the fund and the mechanism, disbursement of the fund, governance of the fund and its mechanisms, and its relation to other international benefits sharing mechanisms. A working group established under Decision 15/9 addressed these issues in Geneva in 2023 as well as, lessons learned from similar funds. An Informal Advisory Group (IAG) was established with IPLC and industry representatives amongst its members and mandated to deliberate issues identified by the Working Group as needing further discussion to facilitate convergence. In May this year, the Co-chairs of the Committee of the Whole provided updates to Parties on progress made in the IAG, as well as with the studies commissioned to shed light on the trigger points for benefit-sharing along the DSI value chain and how these trigger points respond to the criteria set by the COP that serve as the principles of the MLM. An informal parallel process on DSI addressing some of the remaining issue also took place.

During OEWG DSI 2 in Montreal, a draft decision identifying options for trigger points was prepared, though governance and hosting of the fund remained unresolved and were referred to the Advisory Committee on Resource Mobilization (ACRM). Regional meetings and informal exchanges followed in preparation for COP-16 in Cali. The process is characterized by the prevailing need for change and transformation, stakeholder involvement, and the search for new innovative solutions as the issues being considered presents multiple challenges to the existing international governance framework.

Concluding, Taukondjo Shikongo expressed his appreciation to all those who contributed to the process including the Secretariat staff, Co-Chairs and the negotiators amongst others, with hopes that COP 16 in Cali will celebrate collective progress to usher in transformative and innovative change to ensure the effective implementation of the Global Biodiversity Framework and in particular Goal C Target 13.

William Lockhart, Co-chair of the DSI Working Group, highlighted that the process is progressing, with deeper relationships and more nuanced thinking among Parties. The draft from OEWG 2 is well-structured, providing a solid foundation for further work, despite many unresolved issues ("brackets"). The focus now is to resolve these brackets. Key unresolved issues include:

- Who contributes to the fund and on what basis
- Non-Monetary Benefit Sharing (NMBS)
- Hosting of the fund
- Use of funds and disbursement (to governments?)
- Databases and operation of the mechanism
- Reviewing the fund's operation, ensuring it aligns with COP Decision 15/9, and future-proofing it.

Solutions to these challenges seem possible, but the task is to prepare ministers for COP. A contact group will be established before ministers arrive to help finalize these discussions. The mechanism

must address all aspects, and while every issue should be prioritized, time spent on each will depend on how quickly compromises are reached.

Negotiations need to be structured as a package. On the national level, difficult questions are already being discussed, and negotiators need to consider what they can reasonably explain to their governments.

## Technical Introduction

Kathrin Heidbrink, co-facilitator of the event, provided a brief overview about the agenda of the Retreat (see Annex 1) and reminded participants that the meeting is taking place under the Chatham House Rule<sup>6</sup>.

## Stocktaking of the outcomes of OEWG DSI 2

With a view to remind participants on where the negotiation process stands, Timothy Hodges, co-facilitator of the event, identified in his presentation five major categories – aligned to the key unresolved issues mentioned by William Lockhart in his welcome address – and within each category elements with potential convergence and with further need for discussion (for details see Annex 3).

## Discussion of main outstanding / unresolved issues

### Panel Discussion

Four panellists representing four UN regions were asked to reflect on the nature of the issues, what is behind them and why are they issues at all. The discussion among the panellist revealed areas of convergence and divergence:

- There was agreement on the need to rebuild trust and equity between parties, particularly following some setbacks after COP 15. Trust had initially been established, but has since weakened, and it is crucial for progress.
- All panellists agreed on the importance of designing a functional, simple and transparent mechanism to manage DSI and its benefits. The mechanism is essential to mobilize funds for biodiversity conservation, though there is no consensus on how it will operate.
- Flexibility is considered key, especially concerning the "trigger" (who contributes) and cultural differences. One panellist emphasized the importance of considering the corresponding monitoring and reporting requirements that each of the options for the mechanism would entail. Participants agreed that the mechanism must be ambitious, aiming to generate significant resources, although expectations for immediate outcomes differ.
- There was agreement that technical aspects of the mechanism need priority over political considerations. While political challenges exist, the technical setup was seen as the path forward for launching the MLM.
- Opinions differed on the focus of the mechanism. While some felt that contributions are a key issue that still needs to be addressed urgently, others argued for not getting lost in defining all the technical details of who contributes and how benefits are distributed, but rather kick-starting and focussing on the mechanism's ultimate goal of conserving biodiversity.
- One panellist highlighted that disagreements fall into two categories, (1) Clear positions: Issues like the fund host have well-defined positions but lack agreement, and (2) Unclear positions: Issues like the trigger points (who pays) lack clarity, and Parties seem unsure of what they want. These uncertainties are harder and more urgent to resolve.

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<sup>6</sup> When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.

- There was no agreement on how the mechanism for DSI relates to other international frameworks. Some felt that DSI under the CBD should be connected with other DSI issues, while others were concerned about overcomplicating the system.
- While all agreed the need for being ambitious, some cautioned that ambition must be tempered with feasibility. They drew on past experience, such as the limited impact of the Nagoya Protocol, to argue that the new mechanism should be realistic and manageable in its scope.

After the panel exchange, the discussion was opened to the floor. Participants explored different approaches to funding the MLM for DSI and how it should relate to private and public databases, sectors, and legal frameworks. There was consensus that several funding options, including sector-based approaches, need to be considered. However, concerns were raised about the complexity and practicality of these approaches. Most agreed that the MLM should be designed in a way that is implementable and not overly burdensome, particularly for smaller entities like startups that may not use DSI extensively and/or struggle more with compliance requirements than larger companies.

There was also agreement that private databases play a key role in the mechanism, particularly in regulating how public DSI is used through them. The issue of private companies leveraging public databases without sharing benefits was highlighted, with general support for involving them in benefit-sharing arrangements. However, opinions diverged on how strict these obligations should be, especially in cases where DSI originates from sensitive areas such as sacred lands.

A notable point of divergence concerned global resource mobilization (RM) targets. While some participants viewed these targets as useful to guide the mechanism, others felt they could backfire if set unrealistically high, potentially leading to political failure. The question of whether the MLM should be legally binding also sparked debate. Some favoured a non-binding approach through a COP decision, while others felt that legal binding was essential to ensure compliance and achieve the desired resource mobilization.

The supplementary nature of the MLM was emphasized by several participants, noting that it should not replace other resource mobilization efforts, such as Official Development Assistance (ODA). However, there were concerns about the reliability of ODA, given its vulnerability to shifting political priorities. In summary, while there is a shared commitment to finding a workable mechanism for managing DSI, significant differences remain on how to achieve this, particularly in terms of funding, legal frameworks and the role of private entities.

## Discussion of elements of the draft decision on DSI for COP 16

Before engaging in a “written discussion” about elements of the draft decision on DSI, Charlotte Germain-Aubrey of the SCBD provided a short input on the outcomes of the 3<sup>rd</sup> Meeting of the Advisory Committee on Resource Mobilisation (ACRM), 20 to 22 August 2024 in Montreal (for more details see Annex 4). She reported that three alternatives for managing the Global Fund for DSI were discussed:

- The Global Biodiversity Framework Fund
- A dedicated mechanism under the authority of the COP
- Alternatives

A set of general as well as specific contribution and disbursement criteria were established to guide further decision-making. The discussion also examined the mechanisms and experiences of existing funds, including the Global Environment Facility (GEF), the UN's Multi-Partner Trust Fund (MPTF) Office, and the Benefit-Sharing Fund (BSF) of the FAO Plant Treaty.

Recommendations emphasized that the form of the mechanism should follow its function, and the decision will ultimately be made by the COP. However, there was no consensus on which entity would be the most suitable. For further details see her presentation in Annex 4. The report of the ACRM meeting is available as document [CBD/RM/AC/2024/2/2](#) since 3 October 2024.

William Lockhart reflected on the draft report, highlighting that it contains extensive information on whether potential hosts have the necessary capacities to manage the mechanism. He noted the emergence of new candidates, such as the Multi-Partner Trust Fund Office. However, questions remain about the timing, particularly regarding when these funds will be ready to receive and disburse money and what that means for selecting a fund host.

He further emphasized that while "form should follow function" in choosing the mechanism, political considerations will inevitably influence the decision, and governments should be prepared and transparent about this. He noted that no single fund is perfect—some funds, like the GEF, are limited by their project-based focus, while others cannot accept contributions from certain industries like tobacco or oil. Some limitations, such as the inability to disburse to Indigenous Peoples and local communities (IPLC), could be worked around through other mechanisms, while others may be non-negotiable.

For the "**written discussion**", eight key unresolved issues from Annex 1 of the Draft Decision on DSI for COP 16 were picked based on consultation with the participants. Each topic was displayed on one large board, together with selected chunks of text to be discussed. The eight boards were exhibited in a separate room, with enough space for all participants to freely walk around and discuss.

Discussions on each of the eight unresolved issues took place in front of the respective boards. This allowed the participants to pick whichever topics they individually found most important and discuss with whoever they'd meet at the respective board – bilaterally or in small groups. The only request was for them to note their key points down in writing on the respective board. This way, participants were also able to comment on remarks that had been written down earlier by others.

A structured transcript and a picture of each of the eight boards is available in Annex 5. The "written discussion" of the eight questions can be summarised as follows:

### **Question 1: What kind of users need to share benefits?**

The discussion centred on which users need to share benefits. Agreement emerged that all users, both commercial and non-commercial, should share benefits based on whether they derive monetary or non-monetary benefits. For-profit users would be required to share monetary benefits (mandatory or voluntary), while non-profit users, especially those receiving public funding, would contribute through non-monetary benefits, such as sharing research, data, knowledge capacity building, and technology transfer.

There was broad agreement that the MLM should cover all DSI in public databases, thus addressing the gap in the current ABS system. Some raised concern that DSI under MAT in public databases causes problems and offers possibilities for jurisdiction shopping by filtering out such DSI. Private databases using public DSI would need to share benefits through the MLM and comply with PIC and MAT when accessing genetic resources.

### **Question 2: Users from which countries are to make payments – and should there be exemptions?**

There was some agreement that this is a discussion about implementing an ABS mechanism under CBD Article 15. Thus, all countries and all users, regardless of size, should contribute if they make commercial sales. A suggestion was made that participation in the system should be voluntary.

Exemptions were suggested for those already paying benefits through other specialized mechanisms tied to genetic resources (GR). Some called for exemptions and pragmatic thresholds specifically for small and medium-sized enterprises (SMEs) that contribute minimally to global GDP. Exemptions for SMEs could be reconsidered if the system is simple and affordable.

Participants questioned why exemptions, including for non-commercial users, should apply only to developing countries, and raised the issue of how to define a developing country, with a suggestion to



use the UNDP Human Development Index. Concerns were raised by some about potential loopholes for avoidance and the risk of reducing the overall contribution base too much. There were also concerns about the legal implications for non-commercial users, particularly nonprofit institutions with public funding.

Some participants argued that the MLM is not about the user-provider relationship, but rather the broader responsibility of users, regardless of their location. Further it was proposed that the related paragraphs 2, 3 and 4 of the Draft Decision should be considered together as a cohesive "cluster" for better clarity and decision-making.

### Question 3: On what basis should contributions be made to the global fund?

The discussion focused on potential approaches to determine which users or sectors should contribute to the fund based on their use of DSI in developing products or services.

There was broad support for combining options A and B, which target users in sectors reliant on DSI and that place products or services on the market. However, it was suggested that products and services developed using genetic resources or DSI covered by another specialized instrument should be excluded. Some participants expressed concerns that "highly reliant" (from Option B) is difficult to implement.

Regarding Option C, which relates to the retail value of all products linked to biological resources, participants stressed the need to ensure clarity that consumers would bear the costs. Option D, suggesting that users contribute a portion of their revenue or profit voluntarily, raised concerns about the definitions of "actively" using DSI and the ambiguity of what a "portion" means.

Some general points suggested combining metrics such as sales/turnover and profit to assess contributions. Some proposed that national laws or guidelines focus on "activities", and that the COP decision could provide an indicative list of "DSI activities" to guide implementing parties. Others highlighted that in the end it will be the companies that need to decide whether they develop or use DSI products and need to pay a part of the revenues, and legal clarity should avoid broad terms like "users."

### Question 4: Which users should share non-monetary benefits – and should these same users also share monetary benefits?

The discussion focused on the idea that all users of DSI should share non-monetary benefits (NMBs). There was consensus that this should not replace the sharing of monetary benefits, while emphasizing that the focus of the MLM should remain on monetary benefit-sharing to support capacity building.

Recognizing the diversity of users some participants agreed that NMBs should be shared based on users' capacities, and that non-monetary contributions could potentially reduce a user's monetary obligations.

Some highlighted that NMBs should be properly counted so that they can be reported under KMGBF monitoring framework. Others pointed out that the MLM should enable match-making for NMBs.

### Question 5: What can COP realistically do to change data governance practices of public databases?

The discussion covered various viewpoints on the role of the CBD and the COP in influencing the governance of DSI databases.

Participants emphasized the importance of allowing the use of specialized databases (3,000 were mentioned) and enabling the integration of different types of data, not directly related to GR. The CBD was seen as having influence, particularly on norm-setting and raising awareness about potential ABS obligations and the MLM. COP can play a role in promoting best practices for DSI database governance, similar to what is done in other publicly funded databases, which often focus on ethical use, privacy,



and security. Examples like the GBIF Data Publisher Agreement and different types of Creative Commons licences were cited to show how public databases manage data while maintaining accessibility. Some participants warned against placing too much burden on DSI database operators with prescribed actions.

The mention of public databases being taxpayer-funded suggested they will follow broader social trends, and there was a humorous nod to the "Liverpool rules" with the phrase "You'll Never Walk Alone," likely indicating a spirit of solidarity.

#### **Question 6: How can developing and reviewing a formula be made compatible with the agreement to operationalise the MLM at COP 16?**

The discussion focused on how funding will be allocated using a formula that considers evidence-based indicators and well-defined variables. There was concern that this process may be used as a delaying tactic, which some participants rejected. Developing the formula should be done transparently, with consensus and insights from other funds.

The conversation highlighted the need to discuss project-based versus direct allocation approaches, with a formula still required for either option. The formula will be reviewed by COP 17, but disbursements can begin immediately based on an initial COP 16 formula, which could serve as an interim solution. Some highlighted that technical expertise is crucial for developing indicators, while others proposed that an Ad Hoc Open-Ended Working Group should be responsible to ensure inclusiveness.

Participants also emphasized the importance of direct payments to IPLCs, ensuring protection against corruption and mismanagement, while minimizing transaction costs. There is a proposal for 100% of the initial allocation to go to IPLCs until COP 17, with criteria to be developed for the first two years, prioritizing immediate project-based disbursements.

#### **Question 7: Who will administer the fund – and how will this impact governance of the fund? (e.g. SCBD, GEF, Multi-Partner Trust Fund Office of the UN (MPTF), Regional Development Banks ...)**

The discussion revolves around the administration of the proposed biodiversity fund, with different options considered for its governance. The COP would have authority over the fund, but the Global Biodiversity Framework (GBF) Fund is preferred by many due to its potential for direct allocations.

There was interest in the UN's Multi-Partner Trust Fund Office (MPTFO) as a possible interim solution, and as some proposed combined with the Global Environment Facility (GEF) for project-specific disbursements, especially for IPLCs. However, concerns were raised by others about the GEF's limitations, including its inability to receive private sector funds or disburse to developed countries, and its high administrative costs. The MPTFO is managed by UNDP, but the Global Fund of the MLM would be governed by a committee designed by the COP, offering transparency and flexibility<sup>7</sup>.

Participants emphasized the importance of transparency and accountability to attract contributions. Some strongly suggested rejecting GEF and GBFF as hosts, due to governance issues and high administrative costs, with many advocating for the creation of a new, dedicated fund under the COP's authority.

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<sup>7</sup> For governance and management architecture of each pooled fund administered by the MPTF Office see [Governance and management | MPTF Office \(undp.org\)](#)

## Question 8: What is the relationship between the MLM of the CBD and other international ABS instruments?

The implementation of the MLM should be carried out in a mutually supportive manner with other international ABS instruments. This approach was advocated for easier income generation and to ensure biodiversity does not lose out to sectors like health and agriculture.

The discussion highlighted that various UN bodies (e.g., WHO, FAO, WGAH, UNEP) should coordinate to avoid overlap and enhance complementarity among ABS systems to avoid double payments and provide legal certainty for users and providers. The principle of *Lex specialis* implies that more specialized instruments take precedence, but issues arose around who pays and under what legislation. Some participants called for a simple, non-duplicative and complementary system among ABS systems, while few emphasised that instruments are mutually exclusive.

Participants stressed the need for specialized solutions that offer legal certainty and compatibility across different fora with flexibility to adapt to scientific and technological developments. There was broad agreement that cross-recognition of payments between ABS systems is necessary. Some highlighted that the CBD sets the standard and other fora adjust to the CBD MLM, while others suggested convening technical discussions among relevant UN bodies to explore how such coordination could work.

## Reflection on the Outcome of the “Written Discussion”

Participants highlighted a growing sense of convergence as discussions evolved, with Parties becoming more aware of what is needed to resolve challenges in a positive atmosphere and finding more common ground than division in addressing Question 3.

Fund allocation discussions touched on the involvement of IPLCs, with questions raised about whether respect for IPLC rights also implies their direct involvement. One participant emphasized that IPLCs, as primary custodians of biodiversity, should be key recipients of funds. There was consensus on starting the system with an interim solution rather than waiting for a formal allocation formula.

Another participant highlighted convergence on who should contribute to the fund, stressing that those who benefit should also share non-monetary benefits (NMB). There were discussions around thresholds and of exemptions, with consideration for different contexts and company sizes. Agreement was emerging around combining options for how to trigger contributions.

A participant raised concerns about maintaining balance between different elements and emphasized the need for a coherent logic across the mechanism, suggesting that for contributions, the "user-provider" logic should apply, while for disbursements, it should be based on conservation effectiveness. A fair mechanism would be desirable to create a level playing field for Parties (both for money in and money out).

Reflecting on COP 15, it was noted that, while there is ambiguity around the scope of DSI, the decision to share benefits from its use is clear. There was recognition that further work is needed to operationalize the MLM and clarify IPLC's role. The discussion also touched on the harmonization of instruments across different fora, with a call for a consistent approach to avoid fragmentation of datasets and ensure alignment with scientific and ethical principles. The overarching goal is to create a system that accommodates other instruments while fostering capacity development.

## Morning news from Rome and Geneva

With a view to support the further discussion, witnesses of the negotiations under the International Treaty on Plant Genetic Resources for Food and Agriculture (Plant Treaty) and the WHO were invited to update participants on status and progress made in the respective meetings taking place in parallel to the DSI User Exchange and Negotiators Retreat in Pretoria.

## Update from the 12<sup>th</sup> Meeting of the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System

The speaker provided insights on how benefit-sharing DSI is being considered within the context of the Plant Treaty, which already has a multilateral system (MLS) for plant genetic resources for food and agriculture. Key points include:

1. **Integration with Existing Systems:** The focus is on how DSI benefit-sharing could complement the existing MLS. DSI is a tool in crop improvement, but access to actual plant material is still crucial for final products. DSI helps in comparing plant genetic resources and adds value through research.
2. **Two Subscription Modalities for Benefit-Sharing under negotiation:**
  - A **10-year subscription** where companies make annual payments based on sales of new plant genetic products, regardless of the use of genetic resources or DSI.
  - A **deferred payment modality**, where payment obligations arise at commercialization. However, there is uncertainty around which products would trigger payments.
3. **Open Data and Database Management:** There is a concern under the Plant Treaty about ensuring data from the MLS remain open and publicly available for research, training, and breeding. This concern includes tagging data as being from the MLS to facilitate benefit-sharing.
4. **Relationship with CBD:** The Plant Treaty community acknowledges the need for coordination with the CBD, especially in defining mutually exclusive benefit-sharing obligations. Payment for products should only be made under one system to avoid double payments, either to the Plant Treaty or the CBD, depending on the nature of the product.

## Update from the 11<sup>th</sup> Meeting of the Intergovernmental Negotiating Body (INB) for a WHO instrument on pandemic prevention, preparedness and response

The speakers outlined the progress and challenges in negotiating a global pandemic agreement, expected to be finalized by either the end of this year or May 2025. This agreement aims to ensure the rapid distribution of vaccines, therapeutics, and diagnostics during health emergencies based on public health needs, not market forces or geopolitics. Critical to the agreement is the inclusion and sharing of DSI, essential for surveillance and developing countermeasures.

Several unresolved issues remain, such as how much of global production should be allocated to the WHO and under what triggers – whether it is during a pandemic, a potential threat, or a public health emergency. There is also debate on whether to agree on these details now or later.

A major topic of negotiation is the definition and traceability of genetic data. The term “Genetic Sequence Data” (GSD) is more familiar in the health context, but some argue for the term DSI to align with the CBD. Additionally, negotiators are discussing how to trace genetic materials and information for equitable benefit-sharing without discouraging open science.

The negotiation also contemplates whether a general ABS system for DSI would align with specific systems like the one in the Plant Treaty. The goal is to create a practical framework that future regulators and parliamentarians can implement effectively, promoting equity and clarity in international agreements on pandemic preparedness.

## Brainstorming on the way forward to a COP Decision

After a short discussion participants agreed to brainstorm the following topics with the aim to identify possible landing zones and compromises:

- **Contributions to the fund:** Which elements of the different options, be it alone or in combination, will best support practical implementation ("money in")?

- **The formula:** Guided by the DSI 9+1 criteria established in COP Decision 15/9, which combination of elements are needed for developing the formula ("money out"); project / allocation approach?
- **Issues of scope, including relationship with other instruments:** What policies and measures need to be agreed upon to ensure mutually supportive implementation?

Based on the interest of participants and considering group sizes two groups discussed the topic "Contributions to the fund". All groups documented their results on flipcharts (see Annex 6).

The following reflection on the outcomes of the group work focussed on progressing toward the operationalization of the MLM, with COP 16 being the next milestone. While there is divergence on some issues, progress has been made in key areas, particularly around the need for an iterative approach. Key insights are summarized as follows:

- **Timeline Concerns:** Participants were concerned about meeting the deadlines and favoured a step-by-step approach that allows learning along the way. There was agreement that technical matters, such as the formula for benefit-sharing, require further work.
- **Resource Focus and Coordination:** Participants agreed on the need to focus resources on capacity building, with an emphasis on coordinating efforts between neighbouring countries. There was concern over avoiding double or triple payments, with suggestions for standardized contributions and reporting methods, such as receipts or certificates.
- **Flexibility and Disbursement:** Flexibility for future expansion into GR was discussed, though the timing for this was not seen as immediate. Some advocated for an interim solution where funds for capacity building could be disbursed, with a focus on avoiding disincentives to share critical public domain data. Concern was expressed about the size of the fund and the need for early engagement with contributors. IPLC were highlighted as potential early beneficiaries of the fund.
- **National Implementation:** National implementation was highlighted as essential, with suggestions for guidelines to clarify what companies need to do under the system.
- **Triggers:** Triggers for benefit-sharing were debated, with a preference for a flexible version that captures major stakeholders without trying to encompass everything immediately. One participant suggested combining elements of different options to ensure major contributors are engaged.
- **Iterative Approach and Interim Solutions:** There was broad support for a step-by-step approach to operationalizing the system, allowing it to improve over time. Participants emphasized that not all details need to be finalized at COP 16. This iterative process would allow learning and adaptation while ensuring progress. Many participants agreed on the need for interim solutions that would allow the disbursement of funds to begin, even before all technical issues are resolved.
- **Challenges in Fund Management:** Concerns were raised about the political difficulties in agreeing on the fund disbursement schemes and formulas, though technical issues were less problematic. There were discussions about mixing direct allocation and project-based disbursement methods. A pilot phase was suggested, starting with one sector and expanding based on experiences. There was broad consensus on the need for clarity in these areas to ensure successful fund disbursement.
- **Commitment to Implementation:** Several participants stressed the importance of reaching a substantive agreement that ensures effective implementation. Failing to do so could be seen as a failure by the international community. There was a strong commitment to operationalizing the mechanism after COP 16, with many participants expressing readiness to implement the agreed-upon mechanism immediately.
- **Involvement of IPLC:** It was noted that IPLC should be prioritized for initial fund disbursements, especially while the fund's size and full mechanisms are still being worked out. This was seen as a practical first step while other stakeholders are brought into the system later.

- **COP 16 as a Key Milestone:** Participants emphasized the importance of making progress at COP 16, with suggestions to ensure alignment between different national and regional efforts. The aim is to take the first steps toward implementing COP Decision 15/9, with an emphasis on feasibility and practicality in reaching interim solutions.

Overall, the discussion reflected a consensus on the importance of operationalizing the system as soon as possible, while allowing for ongoing adaptation. The iterative, step-by-step approach was widely supported, along with the need to prioritize capacity-building and coordination between countries.

## Closure of Retreat

On behalf of the DFEE, Natalie Feltmann thanked participants for sharing views, engaging in sometimes heavy and sometimes light discussions and expressed her gratitude to the organizers for making this successful event possible.

On behalf of the ABS Capacity Development Initiative, Suhel al Janabi thanked the host of the meeting and the participants for their engagement and the constructive discussion. To spread the outcomes of the meeting further the ABS Initiative will organise a side event at Friday, 25.10.24, 10 am Cali time, and encouraged participants to further engage with users in their countries.

## Annex 1: Agenda of the meetings

### Relay between Users and Negotiators

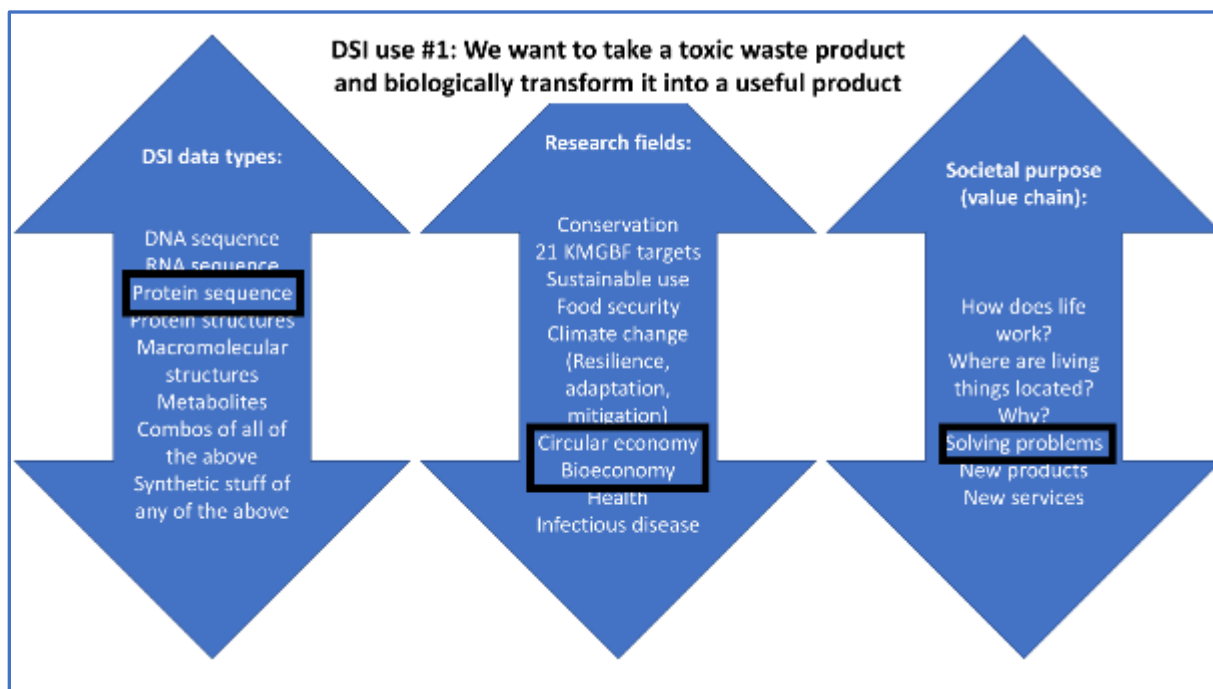
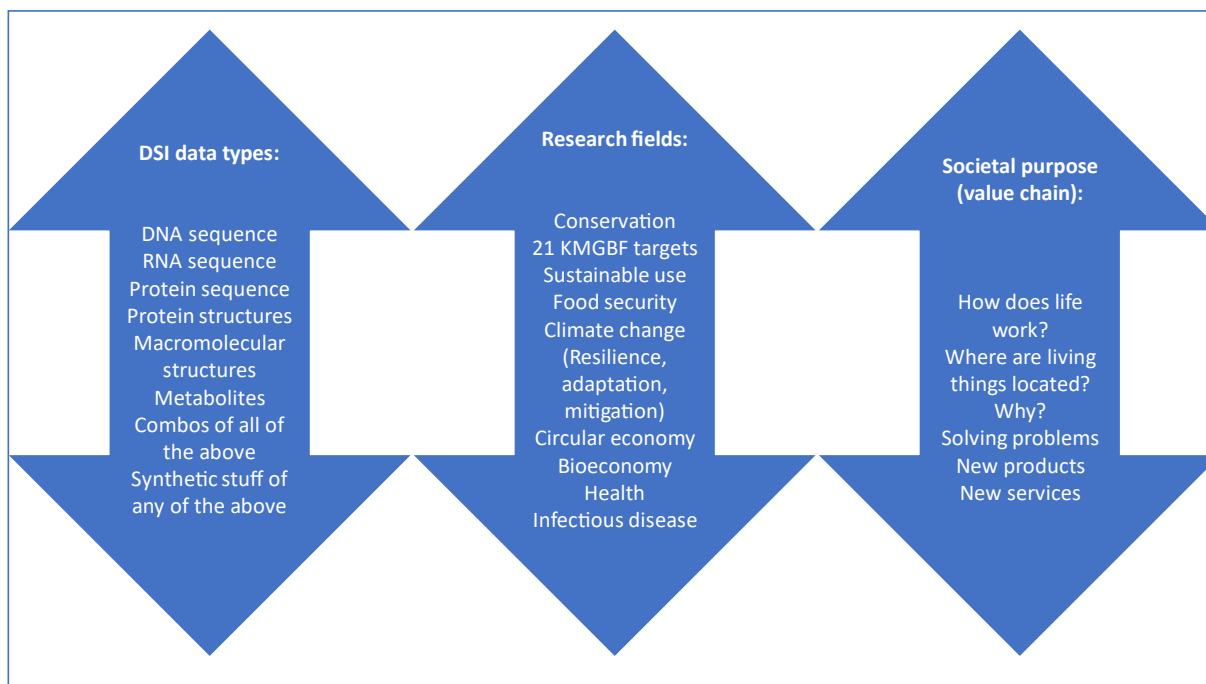
Wednesday, 18 <sup>th</sup> September 2024	
<b>09:30</b>	<b>Welcome and introduction to the Relay</b> <ul style="list-style-type: none"> <li>Gaute Hanssen, Ministry of Climate and Environment, Norway</li> <li>Katie Beckett, Department for Environment, Food &amp; Rural Affairs, UK</li> <li>Verena Stöckigt, Embassy of Germany</li> <li>Nick Bosmans, Embassy of The Netherlands</li> <li>Flora Mokgohloa, Deputy Director General, Department of Forestry, Fisheries and the Environment, South Africa</li> </ul>
<b>10:15</b>	<b>Introduction to the Relay</b> <ul style="list-style-type: none"> <li>Who's in the room</li> </ul>
<b>10:30</b>	Coffee / Tea
<b>11:00</b>	<b>Outcomes from the Users' Exchange</b> <ul style="list-style-type: none"> <li>The diversity of DSI uses, and potential implications for the MSM</li> <li>Main unresolved issues from the perspective of users, and resulting messages</li> <li>Clarification questions from negotiators, and responses from users</li> </ul>
<b>12.30</b>	Lunch
<b>14:00</b>	<b>Discussion of between users and negotiators of outcomes and implications</b> <ul style="list-style-type: none"> <li>Fishbowl discussion</li> <li>Plenary discussion</li> </ul>
<b>16:00</b>	End of Relay & tea break
<b>16:30</b>	<b>Side event on DSI products</b>

## Informal Negotiators' Retreat on DSI

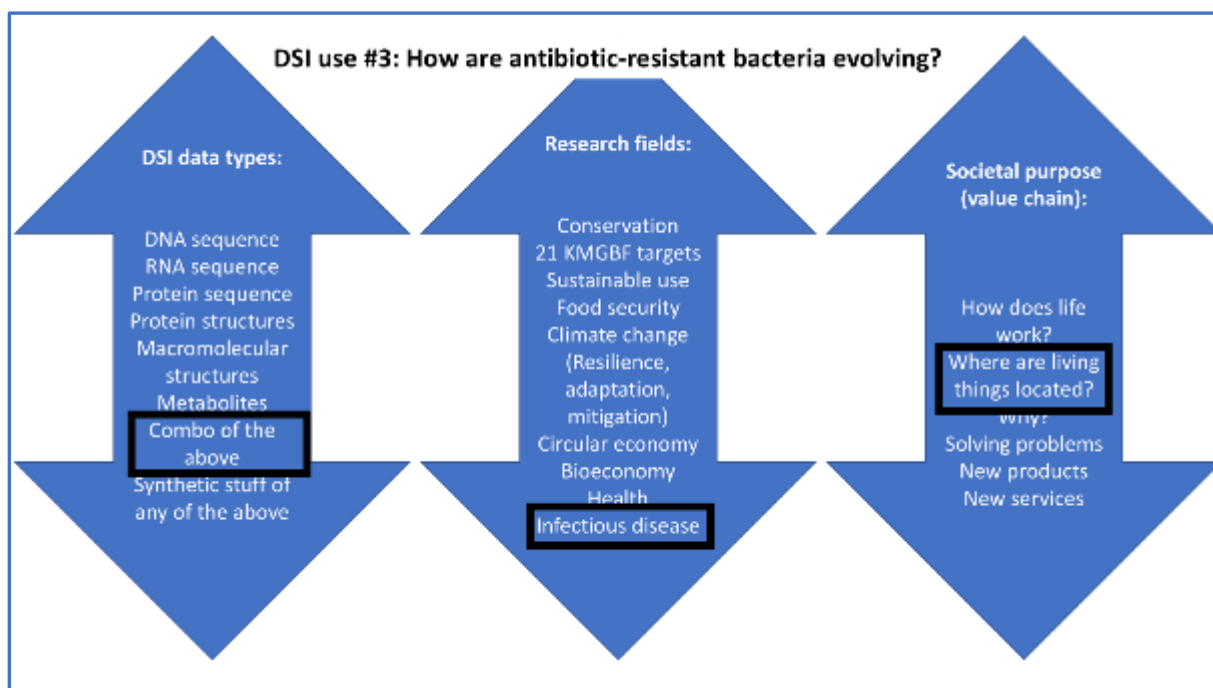
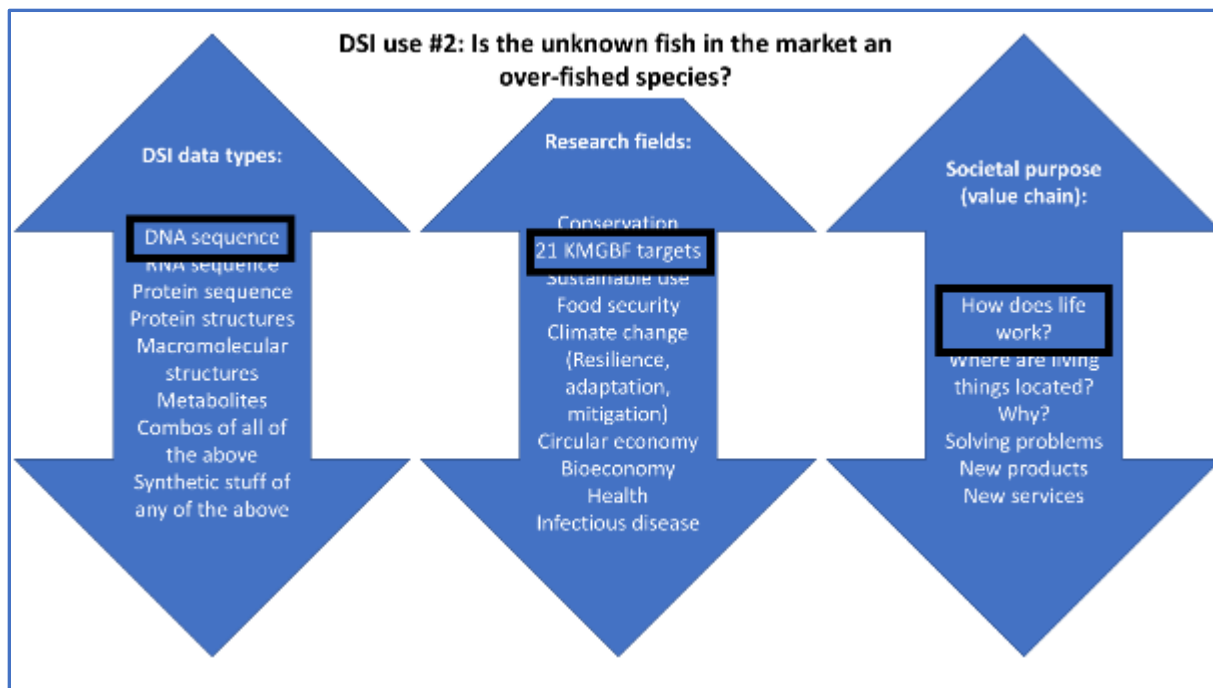
Thursday, 19 <sup>th</sup> September 2024	
<b>09:00</b>	<b>Welcome and Introduction to the Retreat</b> <ul style="list-style-type: none"> <li>Framing; where are we?</li> <li>Technical introduction</li> </ul>
<b>09:45</b>	<b>Stocktaking of the outcomes of OEWG DSI 2</b> <ul style="list-style-type: none"> <li>Overview</li> </ul>
<b>10:30</b>	Coffee / Tea
<b>11:00</b>	<b>Main outstanding / unresolved issues</b> <ul style="list-style-type: none"> <li>Panel and plenary discussion</li> </ul>
<b>12:30</b>	Lunch
<b>14:00</b>	<b>Elements of the draft decision on DSI for COP 16</b> <ul style="list-style-type: none"> <li>Overviews and plenary discussion; Introduction to 'written discussion'</li> <li>Input on Resource Mobilization, by Will Lockhart</li> </ul>
<b>15:30</b>	Coffee / Tea
	<ul style="list-style-type: none"> <li>'Written discussion' of some chunks of text from the draft decision</li> </ul>
<b>17:30</b>	End of day's sessions

Friday, 20 <sup>th</sup> September 2024	
<b>08:30</b>	<b>Morning news</b> <ul style="list-style-type: none"> <li>from Geneva (WHO) and Rome (FAO)</li> </ul> <b>Elements of the draft decision on DSI for COP 16 (cont'd)</b> <ul style="list-style-type: none"> <li>Plenary discussion: Observations from yesterday's 'written discussion'</li> <li>Identifying key topics be discussed further after the break</li> </ul>
<b>10:30</b>	Coffee / Tea
<b>11:00</b>	<b>Brainstorming on the way forward to a COP decision</b> <ul style="list-style-type: none"> <li>Group work: Brainstorming possible 'landing zones' for identified key topics</li> <li>Report-back from group work</li> </ul>
<b>12:30</b>	Lunch
<b>14:00</b>	<ul style="list-style-type: none"> <li>Plenary discussion of group results, and possible additions or amendments</li> <li>Further considerations for the way forward</li> </ul> <b>Closure</b>
<b>15:30</b>	End of Retreat & coffee / tea

## Annex 2: Diversity of DSI uses by Amber Scholz, DSMZ







[illegible]

## Triggers for Benefit-Sharing



### *Elements on which there is potential convergence*

- **Commercial users** should share benefits arising from the use of DSI
- Need for some sort of **economic or social incentive** for user compliance

## Triggers for Benefit-Sharing



### *Elements on which there is a need for further discussion*

- The verb
  - Users of DSI [**are encouraged to**], [**will**], [**should**], [**shall**] share benefits
- Subject
  - **DSI Products** [and services] that have benefited from [been developed or created using] [linked to] the use of DSI,
  - [active] **users of DSI** [highly-reliant] [direct and/or indirect beneficiaries], **in sectors** [highly] **reliant on DSI**
    - List of Sectors in Enclosure A
- Basis for payment
  - **Metric**: profits, revenue, turnover, sales, product retail value
  - [indicative] **percentage** to be contributed
- Location of users to share benefits
  - Users in **all countries** or in **developed countries**

## Non-monetary Benefit-Sharing



### *Elements on which there is potential convergence*

- **All users (commercial and non-commercial) should share** non-monetary benefits arising from the use of DSI
- Some Parties underlined that **sharing non-monetary benefits should not make users exempt** from sharing **monetary benefits**

## Non-monetary Benefit-Sharing



### *Elements on which there is a need for further discussion*

- Relation of NMBS to the MLM
  - a. NMBS financed **through the global fund**, with a **specific portion** of the fund **reserved for NMBS**, capacity development, and technology transfer
    - de-linking of benefit provision from specific DSI users, project-based provision
  - b. NMBS through **mechanism distinct from the global fund** (for example, a clearing-house)
    - could allow match-making, sharing information on DSI use, monitoring NMBS; existing (bilateral) NMBS could continue
- Users & Recipients Roles
  - Non-commercial users in **developing countries solely as recipients** of NMBS or **encouraged / expected to share non-monetary benefits** as well
  - Should NMBS function **through national authorities** or should **private or public actors apply directly** to the mechanism (clearing-house) for projects and/or NMBS

## Fund Distribution



### Elements on which there is *potential convergence*

- funds should be used for *inter alia* **building of DSI-related capacity** and realizing the **objectives of the Convention CBD and the KMGBF**
- funding in the global fund should be allocated in a **fair, equitable, transparent, accountable and gender-responsive** manner

## Fund Distribution



### Elements on which there is *a need for further discussion*

- Disbursement through **direct allocation to countries** or through a **project-based system**
- **Formula** for country allocations
  - Elements for developing a formula in Enclosure B
- Possibility of **establishing an Ad-hoc Technical Expert Group or a Working Group** for further advice and clarification
- **Direct access to funds for IPLC**
- **Specific use** of the funds beyond the points of convergence

## Fund Host



### *Elements on which there is potential convergence*

- should be operated under the **authority and guidance** of and **be accountable** to the **CBD COP** as stipulated by Art. 21 of the CBD
- fund needs to **be compatible with** whatever **system is set up for the KM-GBF** via the resource mobilization negotiations
  - discussions of the fund equally dependent on the outcomes of the Advisory Committee on Resource Mobilization

## Fund Host



### *Elements on which there is a need for further discussion*

- Hosted by the **GEF/GBFF**
  - Concerns: little flexibility to adapt to needs of the global fund, biodiverse developing countries and IPLCs underrepresented in decision-making, insufficient transparency regarding the impact of disbursed funds, inability to provide funding for developed countries
- Hosted by a **new entity immediately** or **hosted in a temporary location** before being moved into the **new DSI global fund**
  - Concerns: insufficient transparency regarding the governance of the fund

## Data governance



### *Elements on which there is a need for further clarification/discussion*

- Novel proposal: **creation of a CBD-run database** to
  - make DSI available to users ensuring the use of DSI in accordance with providing countries' national ABS laws
  - provide information about the country of origin of the GR and aTK attached to the DSI
- **Requirements** for data governance re **existing databases**
  - Make information about the MLM available to users of DSI related to the fair and equitable sharing of benefits arising from its use
  - Inform of the requirements to comply with applicable national and international ABS obligations with respect to GR and DSI
  - Require information on the country of origin of the GR from which DSI is derived as well as aTK
  - Apply FAIR and CARE principles to data governance
  - Accept new submissions of DSI only if accompanied by permission for publication by CNA of country of origin
  - Parties funding, sponsoring or hosting databases ensure implementation of data governance decisions

## Miscellaneous



### Recommendation to SBSTTA

- *Decides to develop specific frameworks for sharing non-monetary benefits for the sectors listed in enclosure A to the annex, on the basis of the needs identified by Parties;*
- *Requests that the draft frameworks be presented to the Subsidiary Body on Scientific, Technical and Technological Advice for review, with a view to having them adopted at the [XXth] meeting of the Conference of the Parties*

## COP 15 Decisions: DSI\*

### The DSI Nine (DSI 9)

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

- 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;



## COP 15 Decisions: KMGBF

### The DSI Nine Plus One (“DSI 9+1+1”)

#### 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.

#### TARGET 13

Take effective legal, policy, administrative and capacity-building measures at all levels, as appropriate, to ensure the fair and equitable sharing of benefits that arise from the utilization of genetic resources and from digital sequence information on genetic resources, as well as traditional knowledge associated with genetic resources, and facilitating appropriate access to genetic resources, and by 2030, facilitating a significant increase of the benefits shared, in accordance with applicable international access and benefit-sharing instruments.










**Thank you!**

## Annex 4: Overview on the Outcomes of the 2<sup>nd</sup> Meeting of the Advisory Committee on Resource Mobilization, by the Secretariat of the CBD




# ADVISORY COMMITTEE ON RESOURCE MOBILIZATION RECOMMENDATION TO THE COP

## Informal Retreat on DSI 19 September 2024



### 3<sup>rd</sup> meeting of the ACRM

- 20-22 August 2024, Montreal
- Mandate to consider whether and how
  - (i) the Global Biodiversity Framework Fund (GBFF)
  - (ii) a dedicated financing mechanism for the CBD under the authority of the COP ("Global Biodiversity Fund"), or
  - (iii) another alternative...would be the adequate entity to receive and distribute the revenue generated by the mechanism established under decision 15/9
- Outcome: CBD/COP/16/5: Recommendation of the ACRM regarding the adequate entity to receive and distribute the revenue generated by the mechanism established under decision 15/9



## Criteria considered in a Fund Host

### GENERAL CRITERIA

- Fair, equitable, transparent, accountable and gender-responsive
- Under the authority and guidance of- and be accountable to- the COP
- Governance structure decided by the COP
- Ensure the full and effective participation of indigenous peoples and local communities in the governance of the fund, and have robust social safeguards framework to respect the rights of indigenous peoples and local communities.
- Have a cost-efficient, effective, and timely operations
- Ability to receive and disburse funding soon after the decision of the COP16
- Ability to interact with other relevant processes, ABS mechanisms or related funds



## Criteria considered in a Fund Host

### CONTRIBUTION CRITERIA

- Ability to receive contributions from the private sector
- Simple and effective process for contributions by the private sector
- Ability to issue receipts and certificates
- Ability to receive amounts from a large number of sources
- Ability to receive revenue from the use of DSI without an international obligation
- Ability to receive payments based on national legislation
- Able to accept any additional or voluntary contribution without legal obligation



## Criteria considered in a Fund Host

### DISBURSEMENT CRITERIA

- Ability to disburse to developing countries
- Ability to disburse to developed countries
- Ability to operate a project-based process (option A)
- Ability to disburse through direct allocation (option B)
- Ability to apply a simple and effective process to disburse funds
- Approve project without cofinancing
- Provide direct access to indigenous people and local communities
- Provide direct access to indigenous people and local communities in developed countries



## Presentations From Existing Funds

- The Global Biodiversity Framework Fund GBFF and the GEF family of funds
- Dedicated financing mechanism under the authority of the COP – global instrument for biodiversity finance
- Other alternatives
  - Funds under UN arrangements: CBD fund and United Nations Multi-Partner Trust Fund Office (MTPFO) funds
  - Benefit-sharing Fund (BSF) of the international Treaty on Plant Genetic Resources and Food and Agriculture



## Recommendations regarding the adequate entity to receive and disburse DSI funds

- Form should follow function: fund host should be determined, inter alia, by the functions that the COP may decide to attribute the fund.
- COP will decide amongst the options put forward by the Working Group on DSI vis-a-vis how the revenue could be received and distributed
- No consensual recommendation on which entity is the most adequate, but information provided and rich exchanges among experts, may be helpful to inform discussions under agenda item 9 (**see report of the meeting**)



We are looking forward to the constructive, ambitious and positive spirit that DSI has shown since COP15!



Secretariat of the Convention  
on Biological Diversity  
secretariat@cbd.int  
www.cbd.int

**THE BIODIVERSITY PLAN**  
For Life on Earth



## Annex 5: Documentation of the “Written Discussion”

### Question 1: What kind of users need to share benefits?

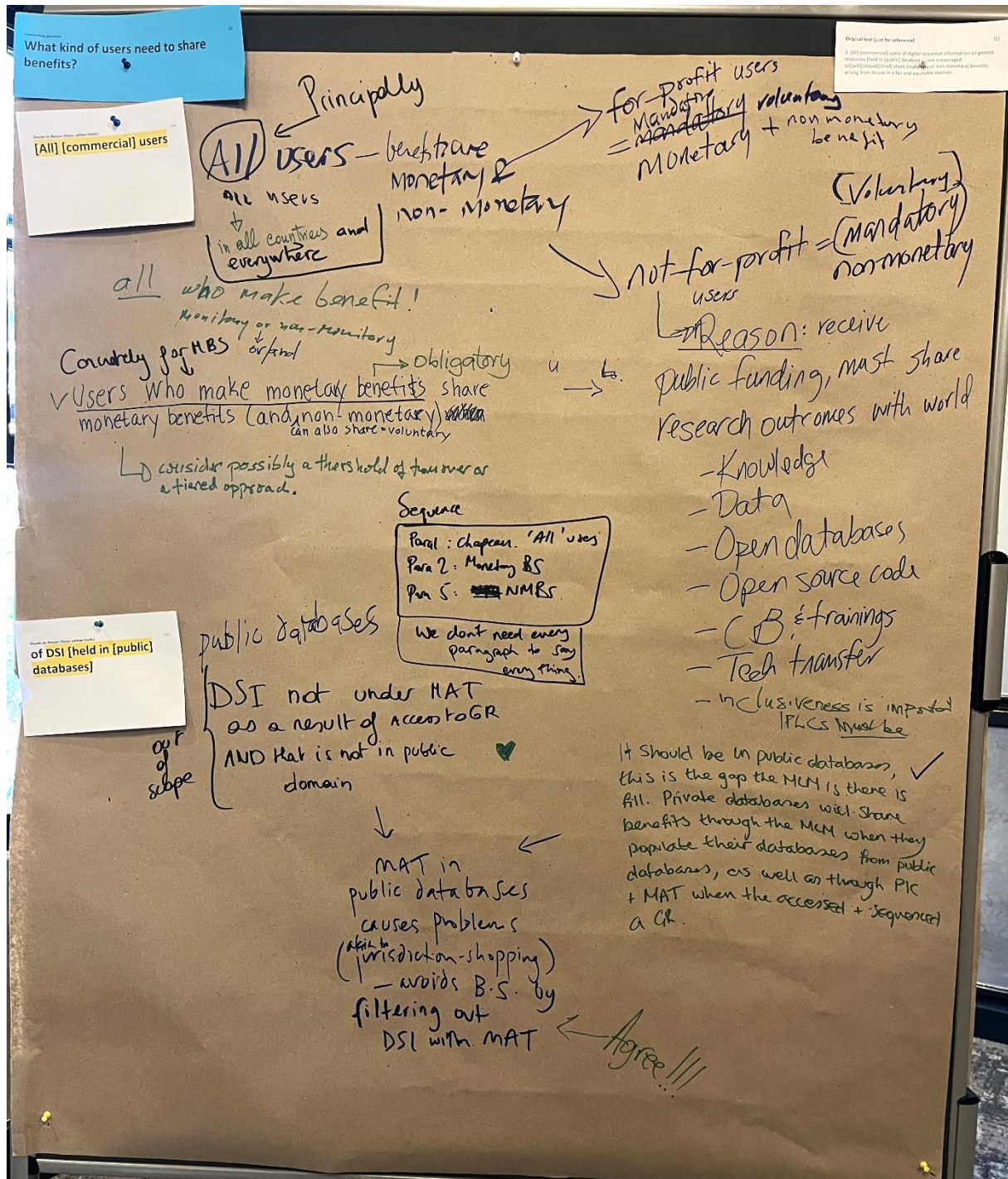
[All] [commercial] users

- All users
  - Principally
  - In all countries
    - and everywhere
  - All who make benefits! Monetary or (and/or) non-monetary
  - Users who make monetary benefits (obligatory) share monetary benefits (and non-monetary benefits)
    - can also share voluntary)
    - consider possibly a threshold of turnover or a tiered approach
  - Benefits are monetary and non-monetary
    - for profit users monetary mandatory / voluntary (and non-monetary)
    - for not-for-profit users non-monetary mandatory / voluntary
      - reason: receive public funding, must share research outcomes with world => knowledge, data, open databases, open source code, CB & training, tech transfer
      - inclusiveness is important, IPLC must be
  - Sequence: para1 chapeau “all users” – para 2 monetary BS – para 3 NMBS – we don’t need very paragraph to say everything

of DSI [held in [public] databases]

- Public databases
- DSI is not under MAT as a result of access to GR and that is not in the public domain
  - Out of scope
  - MAT in public databases causes problems (leads to jurisdiction shopping) – avoids BS by filtering out DSI with MAT
    - Agree
    - It should be in public databases. This is the gap the MLM is there to fill. Private databases will share benefits through the MLM when they populate their databases from public databases as well as through PIC and MAT when they accessed and sequenced a GR
      - Agree





**Question 2: Users from which countries are to make payments – and should there be exemptions?**

[Users of DSI ... [in **all countries**][in developed countries] (make) payments to the global fund

- This is a measure on ABS / Art.15, so “all countries”. But we need pragmatic thresholds for businesses around the world who only contribute a small amount to global GDP
  - Agree
- all users, or sizes, everywhere when they make commercial sales (for profit??)
  - Agree
- Need to voluntarily choose to participate in the system
- not from those paying benefits through other specialised solutions for specific GR on products (and services) developed using covered GR
- Not non commercial users
- yes, all countries/users to make payments
- Yes, all countries/users! It is a user/provider word here
  - This is not good yeah. MLM not a direct relation user/provider
- All countries: this is an issue of providers and users not an issue of where they are based
  - Agree
- Paragraphs 2, 3 and 4 should be considered together; “cluster” of paragraphs

[, placeholder for a **threshold/exemption**].

- Exemptions cannot be uniformly applied across all countries
  - What exemptions
  - Yes, but not in a way that creates space for avoidance and shouldn't shrink the contribution base too much
  - Agree, but understand concerns about SMEs not confronted with same challenges everywhere
- Only non-commercial users in developing countries
  - Why exemptions for developing countries only?
  - Who is a developing country, what list?
    - UNDP Human Development Index
  - Legally impossible for nonprofit institutes with federal funding
- Small and medium sized companies should be exempted. Certain threshold needed in the text.
  - Yes
  - OK, but could ask: Also if simple and affordable?
    - That is possible
- Those paying benefits on same GR/DSI through national measures or a specialised solution



Users from which countries are to make payments  
- and should there be exemptions?

[Users of DSI ... [in all countries] [in developed countries] (make) payments to the global fund

This is a measure on ABS/Art. 15. So 'all countries'. But we need pragmatic thresholds for businesses around the world who only contribute a small amount to global GDP. *agree*

All users, all sizes everywhere when they make commercial sales for profit? *agree*

need to voluntarily choose to participate in this system.

not from those paying benefits through other specialized solutions for specific GR on product developed using covered GR services

not non-commercial users

yes, all countries to make payments. *users.*

Agree but understand concerns about SME's not confronted to same challenges everywhere

All countries. this is an issue of providers + users, not an issue of where they are based.

Paras 2, 3 & 4 should be considered together. "Cluster" of paras.

In all countries! It is a user/provider world here.

this is *Negotia*. HLM is not a direct selection user/provider. *threshold* based on turnover/sales/profit not necessarily size of company

[placeholder for a threshold/exemption].

exemptions cannot be uniformly applied across all countries

what exemptions?

Yes but not in a way that creates space for avoidance and shouldn't shrink the contribution base too much

That is possible.

Only non-commercial users in developing countries

Why exemption for developing countries only?

Legally impossible for non-profit institutes with federal funding.

who is a developing country? what list?

UNDP Human Development Index

small & medium-sized companies should be exempted. Certain threshold needed in the text. *yes.*

Those paying benefits on some GR/DSI through national measures or a specialized solution

OK, but could ask: Also if simple and affordable?

**Question 3: On what basis should contributions be made to the global fund?**

**A:** products [and services] placed on the market that have benefited from the use of DSI in their development

- Combine A with B: Users of DSI, in sectors reliant on DSI, that place products and services in the market
  - Supported
  - Yes, a combination of these two would make sense
  - Should exclude products and services developed using or against the covered GR/DSI of another specialised instrument

**B:** sectors that are highly reliant on] the use of DSI in their commercial activities]

- Cover **all** users in the sector “all in”, exceptions to be proven by users
  - How
    - exclude sales of products if GR/DSI covered by another specialised solution (or national measure for physical material or national measures on DSI)
- Highly reliant” is difficult to implement”
- Combination of B and C
  - Supported – not all companies generate revenue through products (and services) and sales
    - As long as you generate revenue
      - agree

**C:** retail value of all products [and services] (...) linked to the utilization of] (...) [biological resources].

- Need to be clear that consumers pay

**D:** Users ... that actively use DSI (...) contribute a portion of their [revenue][profit] (voluntarily).

- What “actively” means?
- Difficult to understand what a “portion” is
  - That is a part of the profit they make. The amount is decided by each company which can afford to pay.
    - All companies with revenue (and profit) should afford. who decides who can afford?
      - They decide by themselves, with responsibility. That is the sense of voluntary.

**General – not option-specific comments:**

- Could we combine two metrics? Sales/turnover and profit?
- When making national laws / guidelines we will have focus on the “activities”?” Sectors” are useful to identify activities?
  - COP decision could have an indicative list of “DSI activities” for guidance for implementing parties.
- In the end it will be companies / commercial entities that need to decide whether they develop or use DSI products and need to pay a part of the revenues, we shouldn't speak of “users” for legal clarity



On what basis should contributions be made to the global fund?

A. (...) products [and services] placed on the market that have benefited from the use of DSI in their development

B. (...) sectors that are highly reliant on the use of DSI in their commercial activities

C. (...) retail value of all products [and services] (...) linked to the utilization of (...) [biological resources]

D. Users ... that actively use DSI (...) contribute a portion of their [revenue] [profit] (voluntarily).

add on to any other solution for scale

need to be clear that consumers pay

Highly reliant is difficult to implement.

Difficult to understand what a "portion" is

What "actively" means?

Combine these two buyers/users of DSI, in sectors reliant on DSI, that place products + services on the market

A and B supported

Yes a combination of these 2 would make sense

Combination of B + C

Should cover all users in a sector "all in" exceptions to be proven by users

exclude sales of products if GR/DSI covered by another specialized solution or not a measure for physical measures on DSI

How?

users + sectors (indicative?) + activities to make it clear & readable

That is a part of the profit they make. The amount is decided by each company which can afford to pay.

All companies with revenue (and profit) should afford? Who decides who can afford?

They decide by themselves, responsibility. That is the sense of voluntary.

Could we combine 2 metrics?

→ sales/turnover

→ profit

In the end, it will be companies/commercial entities that need to decide whether they [develop] DSI-Products and need to pay a part of the revenues, we shouldn't speak of "uses" for legal clarity

Should exclude services/products developed using or against a covered GR/DSI of another specialized

When making national laws/guidelines we will have focus on the "activities"? "Sectors" are useful to identify activities?

COP decision could have an indicative list of "DSI activities" for guidance for implementing Parties

Original text (just for reference)

1. The following options are proposed:

\* Option A: Users of digital sequence information on genetic resources (as encouraged to) will (should) contribute to the global fund (2% per cent of the (gross/turnover/revenue) generated by products (and services) placed on the market that have benefited from the use of digital sequence information on genetic resources in their development.

\* Option B: Users of digital sequence information on genetic resources (as encouraged to) will (should) contribute to the global fund (2% per cent of the (gross/turnover/revenue) generated by products (and services) placed on the market that have benefited from the use of digital sequence information on genetic resources in their development.

\* Option C: A contribution to the global fund of 1 per cent of the retail value of all products (and services) that have been developed as covered and/or linked to the utilization of digital sequence information on genetic resources (biological resources).

\* Option D: Users of digital sequence information on genetic resources that actively use digital sequence information on genetic resources (as encouraged to) will (should) contribute a portion of their (revenue/profit) to the global fund.

Question 4: Which users should share non-monetary benefits – and should these same users also share monetary benefits?

[All users of DSI, [in line with their individual circumstances,] (...) share non-monetary benefits ... [...],

- All users depending on their capacities
- principally all; practically the mechanism cannot / shouldn't limit / constrain, but enable matchmaking! Does not replace monetary.
  - For commercial users?
  - Does it reduce it?
    - We need to look into this
- Emphasis on NMBs is misleading. The emphasis of the MLM should be on the sharing of monetary benefits.
  - But the monetary benefits should support capacity (NMB)
- Non-monetary benefits should be counted properly, if necessary as a part of monetary contribution, e.g. those who make non-monetary contribution could pay less
- All users of DSI **will** share benefits arising from the use of DSI. It is already a **COP decision** and it is clearly defined in the CBD text. **Monetary benefit is principle, non monetary is subsidiary.**

noting that (this) does not replace ... sharing of monetary benefits.]

- This is true and important, but it's not **necessary** for the text to say it provided paragraph 2 is correct
- Emphasised!
- Yes, profit organisations need to do both
- Yes, if it makes a monetary benefit
- Non-profit making entities should share an MBS. All users should be encouraged. It should not replace an MBS
  - Supported
  - Agree
- Has to be flexible and non-prescriptive given diversity of actors, capacities, benefits – but users need to share them



Which users should share non-monetary benefits – and should these same users also share monetary benefits?

[All users of DSI, (in line with their individual circumstances,) (...) share non-monetary benefits ... (...),

ALL users depending on their capacities.

Need to Report to KMGBF C.2

Principally  $\Rightarrow$  all  
Practically  $\Rightarrow$  the mechanism cannot/shouldn't limit/constrain but enable  $\rightarrow$  match-making!  
[Does it reduce it?] [Does it reduce it?] We need to look into this

Does not replace monetary. [for commercial users?]

EMPHASIS OF NMBs IS MISLEADING. THE EMPHASIS OF THE MLM SHOULD BE ON THE SHARING OF MONETARY BENEFITS.

BUT MONETARY BENEFITS SHOULD SUPPORT CAPACITY (NMB)

NMBs should be counted properly, if necessary as a part of monetary contribution. e.g. those who make ~~the~~ non-monetary contribution could pay less.

All users of DSI will share benefit arising from use of the DSI. It is already a CoP decision, and it is clearly defined in the CBD text. ~~the~~ Monetary benefit is principle, Non monetary is subsidiary.

Non-profit making entities should share NMBs. All users should be encouraged. It should not replace MBS.

supported

Noting that (this) does not replace ... sharing of monetary benefits.]

This is true + important, but it's not necessary for the text to say it, provided paragraph 2 is correct.

emphasized!

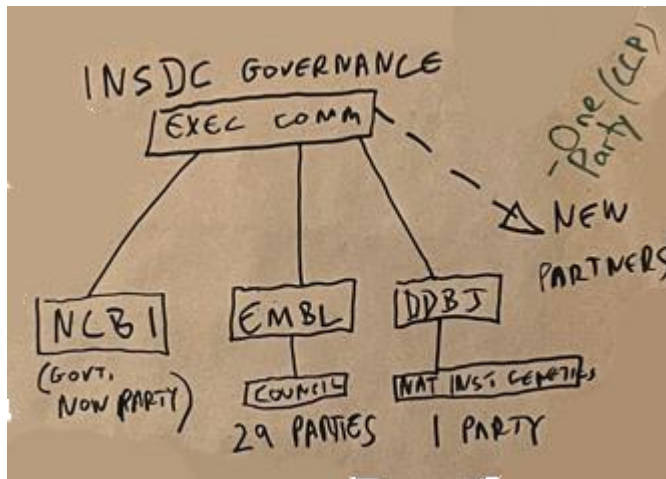
yes profit organisations need to do both  
yes, if it makes a monetary benefit

Amman NMBS has to be flexible and non-prescriptive given diversity of actors, capacities, benefits – but users need to share them

## Question 5: What can COP realistically do to change data governance practices of public databases?

COP decides that) Entities operating [large] public databases on DSI (...) (take prescribed actions ...)

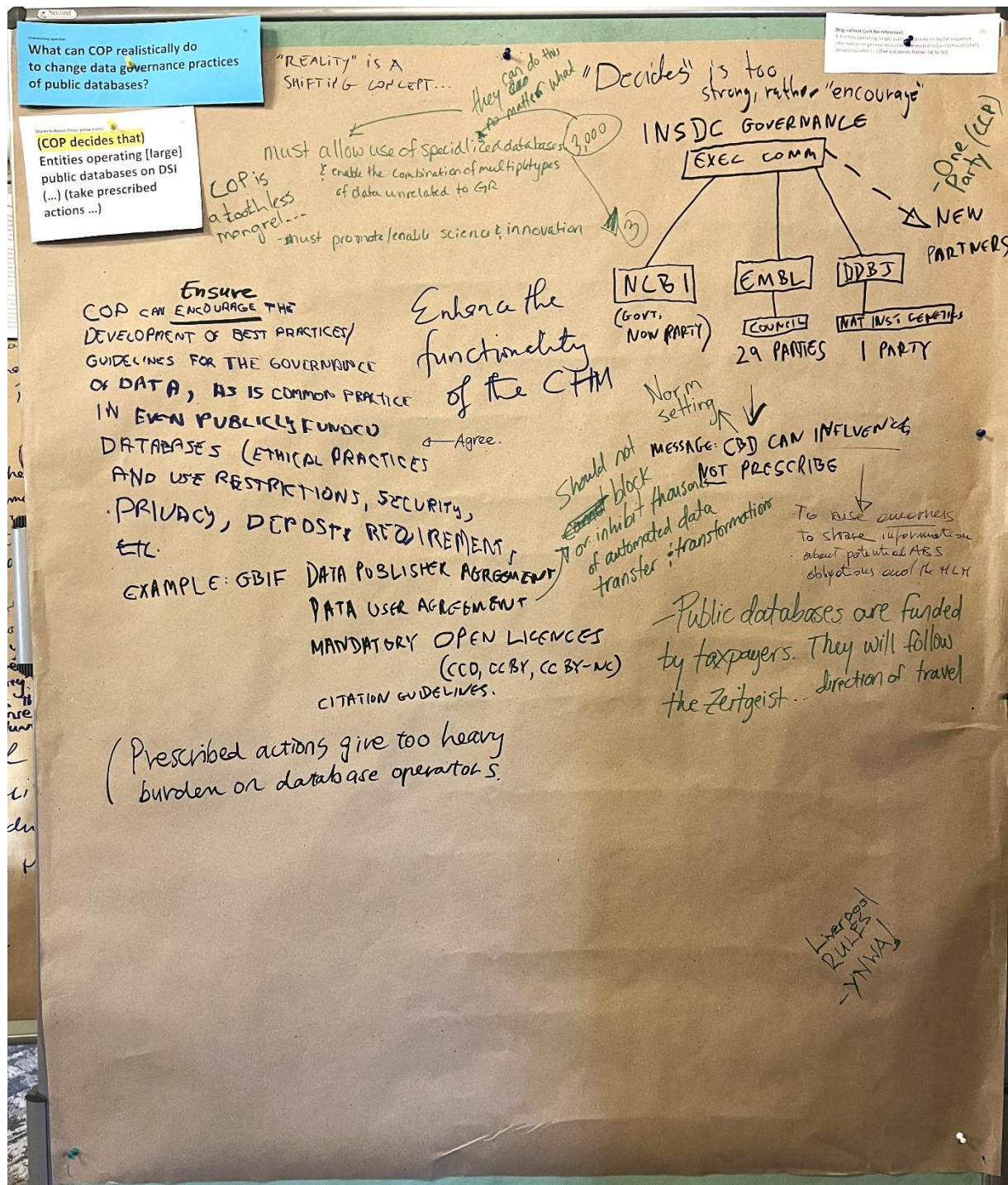
- “Reality” is a shifting concept ...
- COP is a toothless mongrel ...
- Must allow (they can do this no matter what) use of specialised databases (3.000)
- Enable the combination of multiple types of data unrelated to GR
- “Decides” is too strong, rather “encourage”
- INSDC Governance:



Message: CBD can influence, not prescribe

- Norm setting
  - Raise awareness; To share information about potential ABS obligations and the MLM
- COP can encourage / **ensure** the development of best practises / guidelines for the governance of data, as is common practise in publicly funded databases (ethical practises and use restrictions, security, privacy, deposit requirements etc.
  - Agree
  - Example: GBIF Data Publisher Agreement, Data User Agreement (should not block or inhibit thousands of automated data transfers – transformation), mandatory open licences : CC0 (Public Domain Dedication), Creative Commons Attribution (CC BY), Creative Commons Attribution Non-Commercial (CC BY-NC), Citation Guidelines
- Prescribed actions give to heavy burden on database operators
- Public databases are funded by taxpayers. They will follow the Zeitgeist ... direction of travel
- Liverpool rules YNWA (*You'll Never Walk Alone*)







**Question 6: How can developing and reviewing a formula be made compatible with the agreement to operationalise the MLM at COP 16?**

Funding will be **allocated taking into account** (...) [an indicative list of elements for **a (...) formula** (...).

- Delaying tactic – reject!
- Elements need evidence based indicators
- Elements in formula need well thought out variables
- Developing formula must be done in a transparent and accountable manner by consensus. It is natural that it takes enough time
- We need indicators, transparency
- We need to learn from other funds how formats were developed (process, expats, strategy)
- This discussion has a direct relation to the project based allocation and direct allocation approach which is something that we must discuss in this very meeting
  - For either approach, a formula would still be applied. It would assign money to countries and then be disbursed through one of the approaches.
- We need an avenue for direct payments to IPLCs.
  - Through countries
    - OK, if rules to protect against overhead, corruption, other form of fund diversion, also transnational process
- Capacity development for fund administration to keep transaction costs at a minimum

[The formula will be **reviewed** by COP 17 **on the basis of the work of a group** (...)]

- So no disbursement until 2027?
  - No! Disbursement can take place straight away on the basis of the formula from COP 16. But it will be **reviewed** at COP 17.
    - Yes
    - Agree
  - It would be an interim or pilot formula. Is it reasonable to agree on all other aspects but leave this for later? Not a balanced approach.
- Need technical expertise (of many kinds) for the indicators – how to avoid just political experts?
- Proposal is good but need to take experts
  - It should be not ad hoc open-ended working group, not an AHTEG, to ensure inclusiveness
    - With members of the Parties
- 100% for IPLC initially. Formula for IPLC categories to COP 17
  - Given that Working Group (if established) has not met, disburse 100% of the initial allocation to IPLS (work on ground), then only need to develop criteria for projects for first two years to not oppose WG outcomes
    - Project based

**How can developing and reviewing a formula be made compatible with the agreement to operationalise the MLM at COP 16?**

**Funding will be allocated taking into account (...)**  
[an indicative list of elements for a (...) formula (...)]

**Delaying tactic - reject!**

**elements need evidence-based indicators**

**Developing formula must be done in a transparent and accountable manner by consensus. It is natural that it takes enough time**

**we need indicators, transparency**

**elements formula need well thought out variables**

**THIS DISCUSSION HAS A DIRECT RELATION TO THE PROJECT-BASED APPROACH X DIRECT ALLOCATION APPROACH, WHICH IS SOMETHING THAT WE MUST DISCUSS IN THIS VERY MEETING**

**For either approach a formula would still be applied. It would assign money to countries + then money be disbursed through one of the 3 approaches**

**We need an avenue for direct payments to IPLCs**

**INSTANTaneous BY IPLCs**

**we can learn from other funds how formulas were developed (process, experts, steps)**

**Capacity Development for fund administrators to keep transaction costs at a minimum.**

**OK, if RULES TO PROTECT AGAINST OVERHEAD, CORRUPTION, OTHER FORM OF FUND DIMINUTION**

**PROJ. TRANSPARENT PROCESS**

**through countries**

**It would be an indicator or pilot formula.**

**Is it reasonable to agree on all other aspects but leave this for later? Not a balanced approach.**

**So no disbursement until 2027?**

**no! disbursement can take place straight away, on the basis of the formula from COP16. But it will be reviewed at COP17.**

**Yes! Agree!**

**IT SHOULD BE AN AD HOC WORKING OPEN-ENDED GROUP, NOT AN ANTEG, TO ENSURE INCLUSIVENESS**

**Low with members of the Parties**

**100% IPLC INITIALS FORMULA FOR IPLC CATEGORIES TO COP17**

**GIVEN THAT WG (IF ESTD) HAS NOT MET, DISBURSE 100% OF INITIAL ALLOCATION TO IPLC (WILL BE GROWING). THEN ONLY NEED TO DEVELOP CRITERIA FOR PROJECTS FOR 1st 2 YEARS TO WHAT WG OUTLINED PROJECT BASED**

**Original text (not for reference):**  
If funding will be allocated on the basis of the indicative list of elements for a (...) formula (...), the formula will be reviewed by COP 17 on the basis of the work of a group (...)

Question 7: Who will administer the fund – and how will this impact governance of the fund?  
(e.g. SCBD, GEF, Multi-Partner Trust Fund Office of the UN (MPTF), Regional Development Banks ...)

The fund will be administered by [place holder for final decision by COP...] [, in accordance with decisions of the COP, and under the authority of and accountable to the COP]

- The COP
- GBF Fund
- Need to deliver on direct allocation
- We need more info on MPTFO, but they have interesting offer. It would be a combination on of MPTFO and GEF, if GEF was to disburse to specific project proposals, e.g from IPLCs.
- MPTFO as stepping stone to Global Biodiversity Fund
- Is the MPTFO all managed by UNDP, which also has similar issues slash or more off the GEF?
  - No, it's managed by a Committee which COP would design.
- We need the Global Biodiversity Fund (under the authority of the COP – agree) because GEF can't disburse funds to developed countries and it is not able to receive money from the private sector.
  - Yes
  - I agree that form should follow function
  - GEF says, they can do **both** these things
    - It doesn't have mandate (Article 20, 21,39)
- As long as transparency is kept, any entity could host the fund only if it can create a bank account
- Kill GEF!!
- Transparency and accountability are critical in order to attract contributions and show results (waiting for ACRM report)
  - It is already out!
- GEF and GBFF are **not** adequate hosts for several reasons, among which: unbalanced governance, not under the authority of the COP, not able to function under “direct allocation rules”, high administrative costs etc etc.
  - Is there any possibility to fix these issues under the GEF and GBFF?
    - No
    - Yes
    - No
    - No
    - Definitely no
    - And how long would that take? More or less or same as creating a dedicated fund? (Or adopting in other existing fund)
    - We need to try something **new**
      - Agree
    - create a new font



**Who will administer the fund – and how will this impact governance of the fund?**  
(e.g. SCBD, GEF, Multi-Partner Trust Fund Office of the UN (MPTFO), Regional Development Banks ...)

**The fund will be administered by [place holder for final decision by COP...]**  
[in accordance with decisions of the COP, and under the authority of and accountable to the COP]

→ **the COP** **GBFF**

Need to deliver on direct allocation

We need more info on MPTFO, but they have interesting offer. It could be combination of MPTFO + GEF, if GEF was to disburse to specific project proposals, eg from IPLC.

No. It's managed by a Committee which COP would determine.

Is the MPTFO managed by UNDP – which also has similar issues / more of a GEF.

Under the Authority of the COP

GEF says they can do both these things.

It doesn't have mandate

We need Global Biodiversity Fund because the GEF can't disburse fund to developed countries and is not able to receive money from private sector. (YES)

Transparency & (art. 30, 31, 33) accountability are critical in order to attract contributions and show results – (waiting for ACRM report!!)

I agree that form should follow function

As long as Transparency is kept, any entity could host the fund & only if it can create a bank account

It is already out!

GEF + GBFF ARE NOT ADEQUATE HOSTS FOR SEVERAL REASONS, AMONG WHICH:

- UNBALANCED GOVERNANCE
- NOT UNDER THE AUTHORITY OF THE COP
- POT ABLE TO FUNCTION UNDER "DIRECT ALLOCATION" RULES
- HIGH ADMINISTRATIVE COSTS ETC, ETC

is there any possibility to fix these issues? under GEF + GBFF

→ NO. → YES → NO → NO

And how long would that take? DEFINITELY NO

mean, less or same as creating a dedicated fund? (or adopting another existing fund)

→ we need to try something new ✓

→ Create a new fund

**Question 8: What is the relationship between the MLM of the CBD and other international ABS instruments?**

[The MLM will be implemented in [cooperation][a mutually supportive manner] with other international ABS instruments (...)]

- Mutually supportive manner.
  - Why?
    - Easier for income – difficult for disbursement (biodiversity loses out to health and agriculture)
    - Other instruments support and complement the MLM
  - To avoid double payments
    - and legal certainty for users and providers
- They can work under the General Assembly of the UN – WHO, FAO, CBD ...
  - NP – 4x4 criteria for SII (Systemically Important Institutions)
  - Have “Quadripartite” WHO-FAO-WGAH-UNEP working on issues across human, animal, environmental health
- Legal principle: *Lex specialis* - the more specialised instrument prevails
  - Define that biologically
  - Who do I pay?
  - Only for those who are Party to it!!!
  - On what? National legislation?
    - No! Just for other UN fora
  - What is simple?
- Let's keep it simple: Mutually supportive will do probably need some language of non-duplicative etc
  - Complementary amongst the different ABS systems
  - Easy to say, hard to do
    - No! Just for other UN fora
    - Why?
- Mutually exclusive rather than supportive. They are all different instruments.
  - But we want all DSI together for R&D
- Payments in one forum deductible in others
- Need to allow for specialised solutions that for covered GR and for covered uses (1) provide legal certainty (2) certainty no other than national (for Parties) or multilateral ABS obligations apply

It should be able to adapt in response to developments in other forums (...)]

- How to adapt to our all future developments of science, technology etc? By having a flexible system with the broadest basis for payment not bound by legal narrow definition (eg DSI based products)
- Need to be able to accommodate things like specialised solutions plant genetics and WHO for pandemics and health emergencies.
- Other fora can adjust to CBD MLM.
- CBD provides the general ABS rules, other instruments are exceptions to the general rule.
  - CBD sets standards
  - Yes
- Payments should be (cross-)recognised across instruments
  - Yes!
  - Payment in one forum counts as a payment in other fora.
  - Find a way to convene technical discussions across UN4 on this topic (Decision could request from ...??)

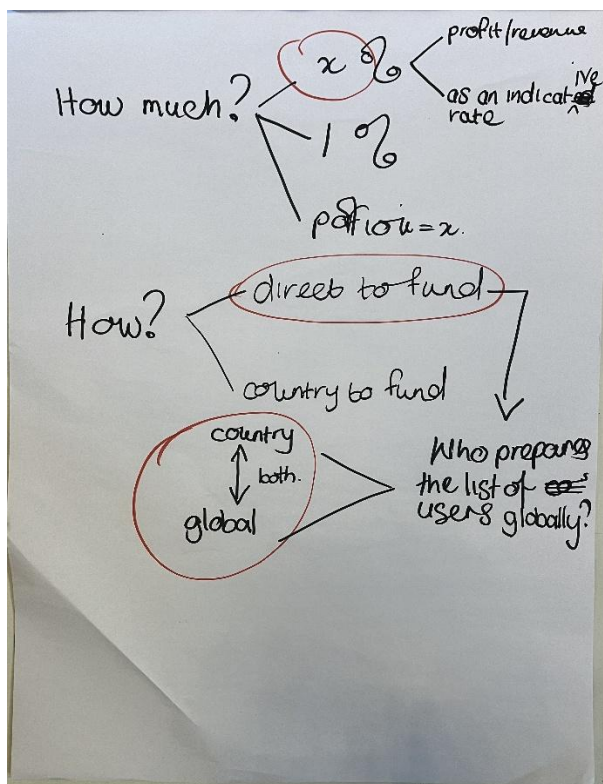
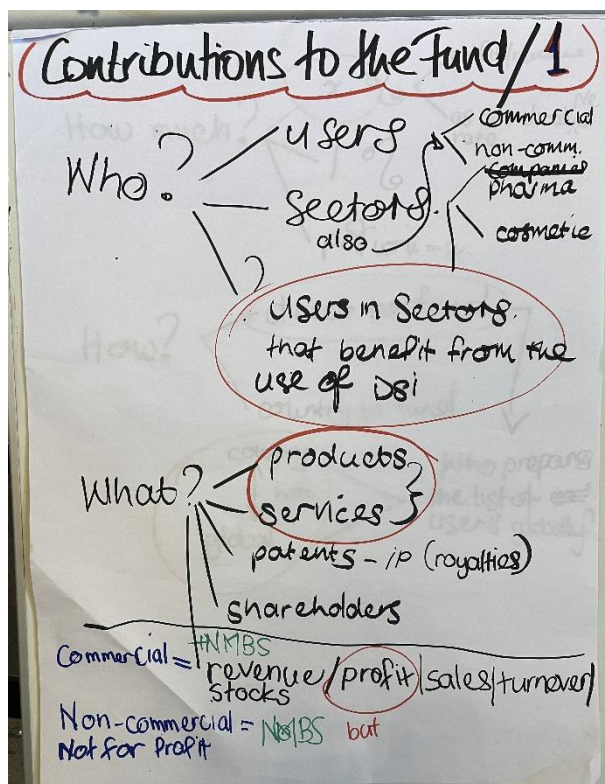




## Annex 6: Brainstorming on the way forward to a COP Decision

### Contributions to the fund / 1

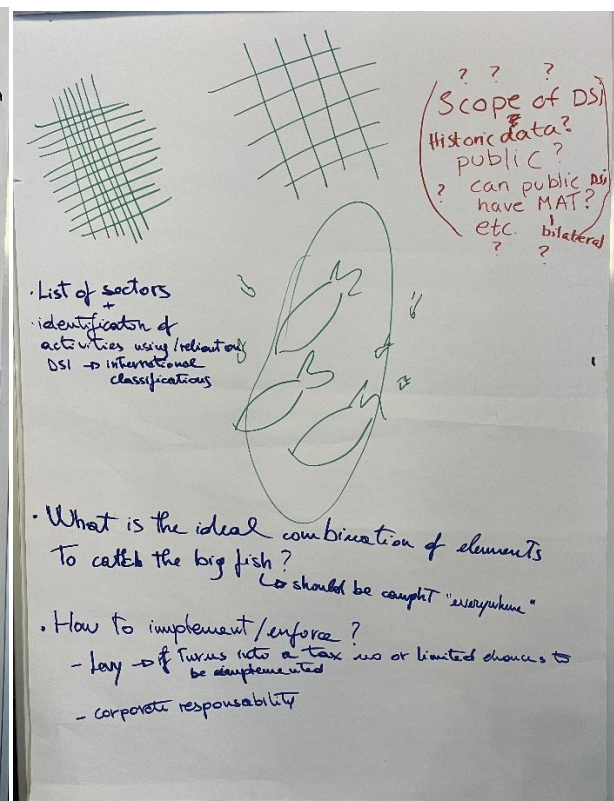
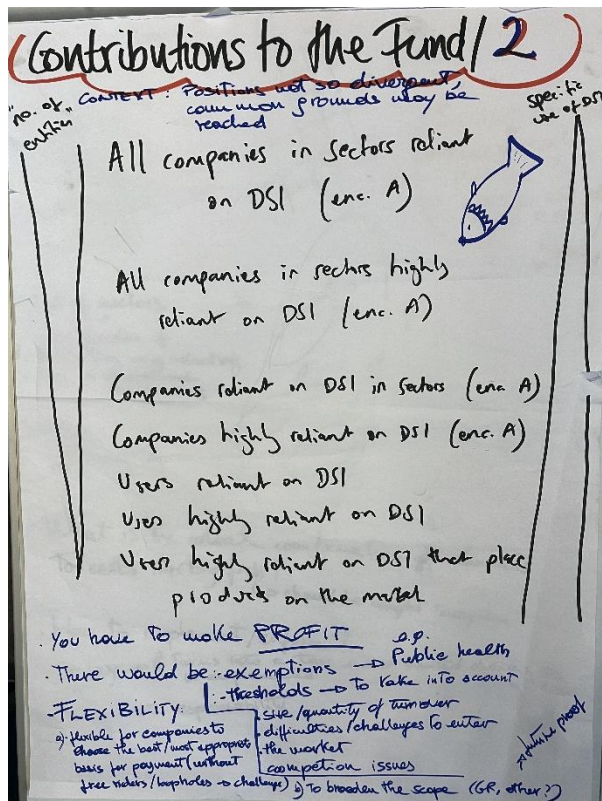
- Who?
  - Users (commercial and non-commercial)
  - Sectors (commercial and non-commercial, pharma, cosmetics)
  - Users in sectors that benefit from the use of DSI.
- What? Products + services combined, patents/IP (royalties), shareholders
  - Commercial: revenue / profit / sales / turnover / stocks and NMB
  - Non commercial / not-for-profit: NMBS, but profit
- How much?
  - x % - profit / revenue as an indicative rate
  - 1 %
  - Portion = x
- How?
  - Direct to fund
  - Country to fund
  - Country and global
  - Who prepares the list of companies.





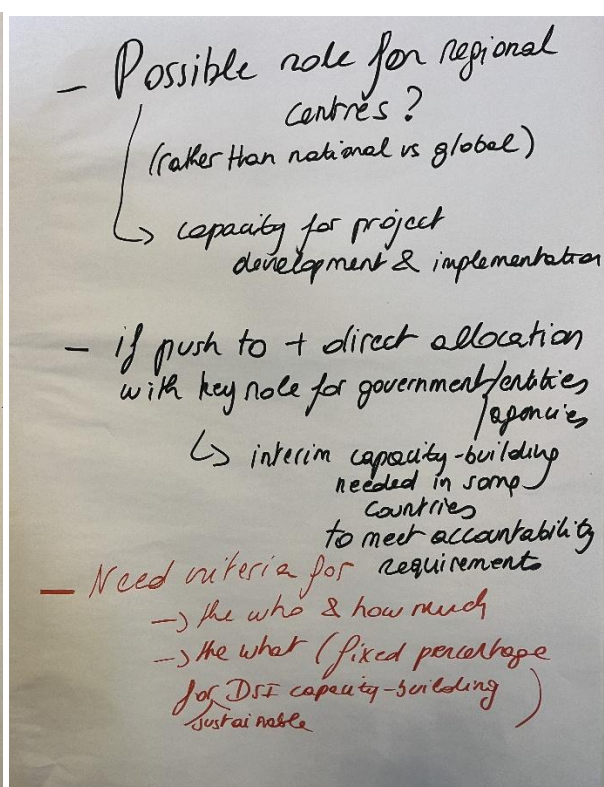
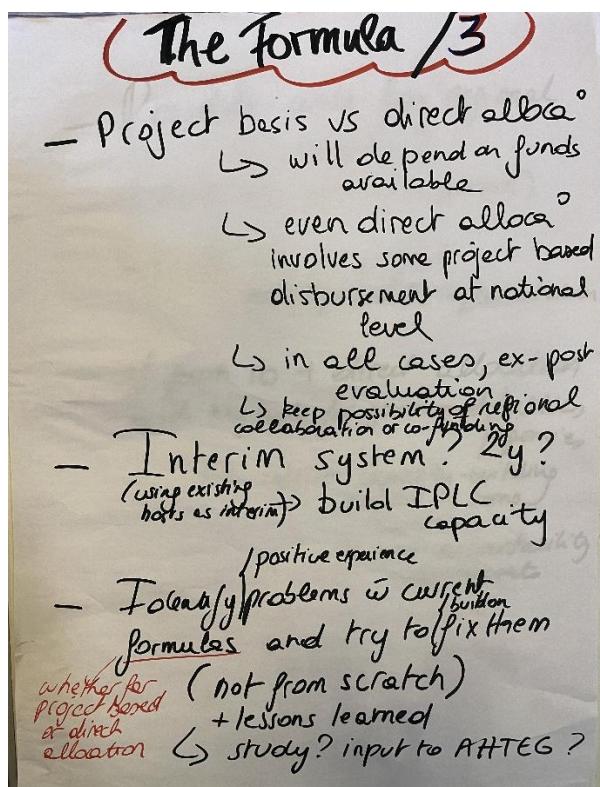
## Contributions to the fund / 2

- Context: positions not so divergent, common grounds may be reached.
- The following list is ordered by the "increasing number of entities" and "decreasing specific use of DSI"
  - All companies in sectors relied on DSI (enc. A)
  - All companies in sectors highly reliant on DSI (enc. A)
  - Companies relying on DSI in sectors (enc. A)
  - Companies highly relying on DSI (enc. A)
  - Users reliant on DSI
  - Users highly reliant on DSI
  - Users highly reliant on DSI that place products on the market
- You have to make profit
- There would be
  - Exemptions, e.g. Public health
  - Thresholds, e.g. To take into account
    - SME / quantity of turn over
    - Difficulties / challenges to enter the market, competition issues
- Flexibility:
  - Flexible for companies to choose the best / most appropriate basis for payment (without free riders / loopholes => challenge)
  - To broaden the scope (GR, other?) => Future proof
- List of sectors and identification of activities using / reliant on DSI => international classifications
- Scope of DSI: historical data? Public? Can public DSI have MAT (bilateral)? Etc.
- What is the ideal combination of elements to catch the big fish? Should be caught everywhere.
- How to implement/enforce?
  - Levy => turns into a tax, no or limited chance to be implemented.
  - Corporate responsibility



### The formula / 3

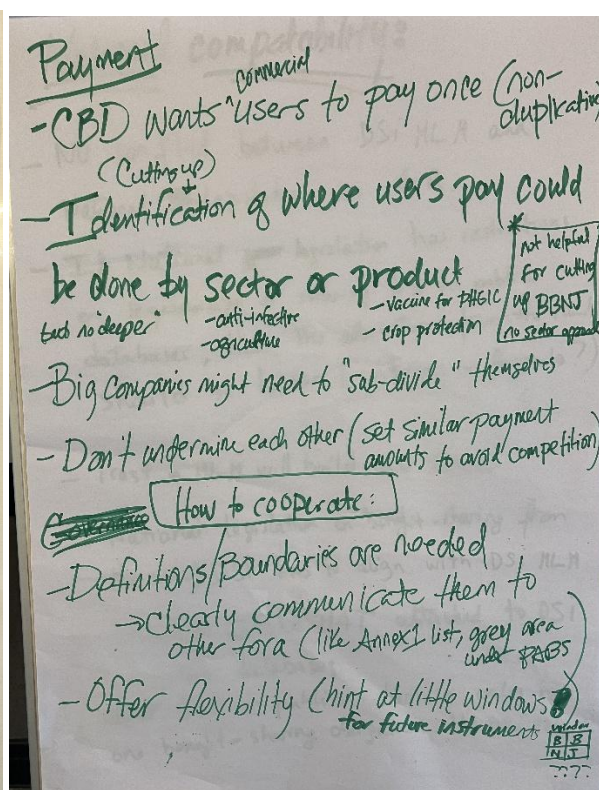
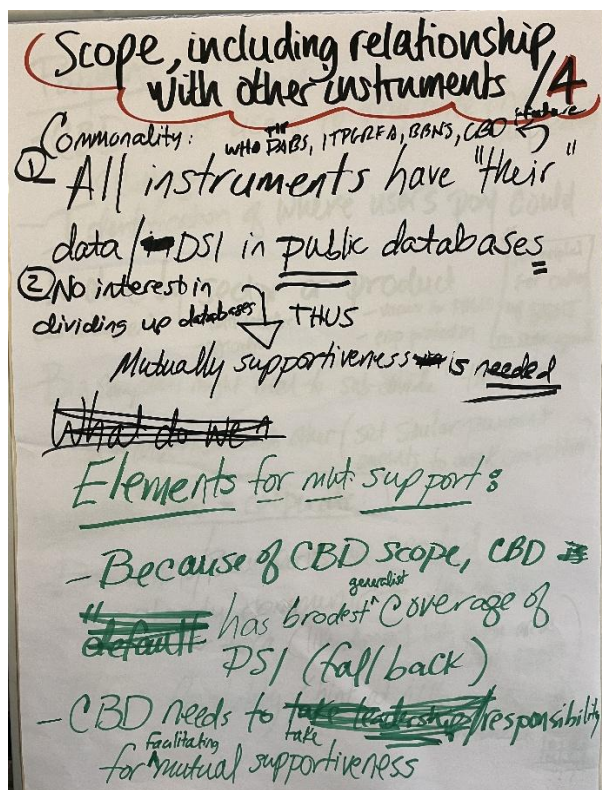
- Project based versus direct allocation:
  - Will depend on funds available
  - Even direct allocation involves some project-based disbursement at national level
  - In all cases exposed evaluation
  - Keep possibility of regional collaboration or co-funding
- Interim system? 2 years? (Using existing hosts as interim => build IPLC capacity)
- Identify positive experience / problems with current formulas (whether for project based or direct allocation) and try to fix or build on them (not from scratch and lessons learned => study? Input to AHTEG?)
- Possible role for regional centres? (Rather than national versus global)
  - Capacity for project development and implementation
- If push to direct allocation with key role for government entities / agencies => interim capacity building needed in some countries to meet accountability requirements
- Need criteria for
  - The who and how much
  - The what (fixed percentage for sustainable DSI capacity building)





## Issues of scope, including relationship with other instruments / 4

- Commonality: All instruments – WHO PABS, ITPGRFA, BBNJ, CBD (future) – have “their” data/DSI in public databases.
- No interest to divide up, thus mutual supportiveness is needed.
- Elements for mutual support:
  - Because of CBD scope, CBD has broadest generalist coverage of DSI (fall back).
  - CBD needs to take responsibility for facilitating mutual supportiveness.
- Payment:
  - CBD wants commercial users to pay once (non-duplicate)
  - Identification where users pay could be done by sector (e.g. anti-infective, agriculture) or product (e.g. vaccine for PHD1C, crop protection)
    - Not helpful for cutting up BBNJ, no sector approach
  - Big companies might need to “sub-divide” themselves
  - Don't undermine each other (set similar payment amounts to avoid competition)
  - How to cooperate:
    - Definitions boundaries are needed. Clearly communicate them to other fora (like Annex 1 list, grey area under PABS)
    - Offer flexibility (hint at little windows for future instruments)
- National compatibility:
  - Between DSI MLM and national legislation on GR.
  - If national legislation has restrictions on sequencing or sharing DSI in public databases, then the allocation from the MLM should be lesser (criterion in formula?).
  - Trust in MLM will build overtime.
  - National legislation on benefit sharing from the use of these I has to align with DSI MLM.
  - Should not be MAT attached to DSI in public databases.
  - ESI in public domain has only one benefit sharing obligation: the DSI MLM.



### National compatibility:

- NO conflict between DSI MLM and National ~~Legislation~~ Legislation on G.R.
- If National ~~legislation~~ legislation has restrictions on sequencing or sharing DSI in public databases, then the allocation from the MLM should be lesser (criterion in formula?)
- Trust in MLM will build over time
- National legislation on benefit-sharing from the use of DSI has to align with DSI MLM
- Should not be MAT attached to DSI in public databases
- ~~DSI~~ DSI in public domain only has one benefit-sharing obligation: the DSI MLM