



# COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

## Item 3.2 of the Provisional Agenda

### Twentieth Regular Session

Rome, 24–28 March 2025

## IMPACT OF ACCESS AND BENEFIT-SHARING COUNTRY MEASURES ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE AND ASSOCIATED TRADITIONAL KNOWLEDGE

### TABLE OF CONTENTS

	Paragraphs
I. Introduction .....	1–2
II. Assessments of access and benefit-sharing measures in other fora .....	3–12
III. Impact of access and benefit-sharing country measures .....	13–20
IV. Guidance sought.....	21

## I. INTRODUCTION

1. The Commission on Genetic Resources for Food and Agriculture (Commission), at its last session, requested the Secretariat to continue monitoring developments regarding access and benefit-sharing (ABS) in other fora, with a view to considering their potential implications, including potential opportunities and challenges for the Commission and its Members. The Commission also requested the preparation of a report on the implications of ABS country measures for the use and exchange of genetic resources for food and agriculture (GRFA) and associated traditional knowledge and the fair and equitable sharing of benefits, for review by the ABS Expert Team.
2. This document provides a brief overview of recent developments relevant to ABS for genetic resources and associated traditional knowledge, with a specific focus on assessments of the impact of ABS instruments and measures. The document considers some of the key findings of the draft report on *The impact of access and benefit-sharing measures on use and exchange of genetic resources for food agriculture and associated traditional knowledge*<sup>1</sup> and seeks the Commission's guidance with regard to further work on the matter.

## II. ASSESSMENTS OF ACCESS AND BENEFIT-SHARING MEASURES IN OTHER FORA

3. Few assessments of the effectiveness and impact of international instruments relevant to ABS and ABS country measures have been carried out. This is partially because some of the instruments have not yet<sup>2</sup> and others have only recently entered into force.
4. Assessments of the effectiveness of ABS instruments are available for the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol) and the International Treaty on Plant Genetic Resources for Food and Agriculture (International Treaty).<sup>3</sup> These assessments usually focus on the effective implementation of the respective instruments. They usually do not consider in any detail the practical experience of relevant stakeholders with ABS measures, or the impact ABS measures may have on users and providers of genetic resources and associated traditional knowledge.

### *Effectiveness of the Nagoya Protocol*

5. A first assessment and review of the effectiveness of the Nagoya Protocol, as foreseen in its Article 31, was initiated in 2016 and presented in 2018.<sup>4</sup> The first assessment focused on assessing the level of national implementation of the different provisions of the Nagoya Protocol, as well as gaps and needs in terms of capacity. The first assessment generally did not distinguish between different sectors of genetic resources and associated traditional knowledge, nor did it differentiate between different purposes for which they are used for research and development (e.g. drug development, plant breeding, crop protection, etc.). Moreover, practical experiences with ABS measures of users and providers of genetic resources and traditional knowledge, including Indigenous Peoples, were not the primary focus of the first assessment.
6. In 2018, the Conference of the Parties to the Convention on Biological Diversity (CBD COP) serving as the meeting of the Parties to the Nagoya Protocol, in taking note of the key findings of the first assessment, requested, as an additional source of information in future assessments, "a targeted survey of access and benefit-sharing national focal points, competent national authorities, and users and providers of genetic resources and/or associated traditional knowledge on challenges related to the

---

<sup>1</sup> CGRFA-20/25/3.2/Inf.1.

<sup>2</sup> e.g. the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Agreement), adopted on 19 June 2023, and the WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge adopted on 24 May 2024.

<sup>3</sup> e.g. the Pandemic Influenza Preparedness (PIP) Framework for the Sharing of Influenza Viruses and Access to Vaccines and other Benefits of the World Health Organization (for a review of the PIP Framework, see EB140/16, Annex 1).

<sup>4</sup> CBD/SBI/2/3.

implementation of the Protocol.”<sup>5</sup> The second assessment, initiated in 2024, will therefore include such a targeted survey to provide an additional source of information.<sup>6</sup> In addition, a scoping study on the possible reasons and underlying root causes for the challenges to effective implementation and compliance and on possible ways to enhance implementation of the Nagoya Protocol will form part of the second assessment.<sup>7</sup> The second assessment and review is expected to be considered by the Subsidiary Body on Implementation at its sixth meeting.

7. The national reports for the second assessment will also feed into the global review of collective progress in the implementation of the Kunming-Montreal Global Biodiversity Framework (KM GBF).<sup>8</sup>

#### *Kunming-Montreal monitoring framework*

8. The CBD COP, at its fifteenth meeting, adopted a monitoring framework for the KM GBF. Both Goal C and Target 13 of the KM GBF address ABS in the context of genetic resources and associated traditional knowledge and aim at a substantial increase of monetary and non-monetary benefits resulting from the utilization of genetic resources, as well as of digital sequence information on genetic resources and associated traditional knowledge. More specifically, target 13 requires “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.”

9. The agreed headline indicators for both, Goal C and Target 13, focus on monetary benefits received in accordance with applicable internationally agreed ABS instruments<sup>9</sup> and non-monetary benefits arising from international ABS instruments<sup>10</sup>. Another (‘binary’) indicator focuses on countries that have taken effective ABS and capacity-building measures to ensure fair and equitable benefit-sharing.<sup>11</sup>

10. While benefits are an important indicator for the functionality of ABS systems, they do not necessarily reveal the impact of ABS measures on the use and exchange of genetic resources and associated traditional knowledge for research and development, or the indirect impact of ABS measures, including in raising awareness and developing capacity, for example, among Indigenous Peoples of their rights pertaining to the use of their knowledge. Nor do benefits, as such, allow differentiating according to sectors and applications of genetic resources. Similarly, the agreed binary indicator, while it will allow identifying the number of countries that have taken measures to ensure benefit-sharing, will not generate information on how these measures affect in practice the use and exchange of GRFA and associated traditional knowledge or the actual sharing of benefits.

#### *International Treaty on Plant Genetic Resources for Food and Agriculture*

11. The International Treaty provides for a compliance framework through Article 21 which mandates the Governing Body to approve compliance procedures that include “monitoring, and offering advice or assistance, including legal advice or assistance.” The Compliance Procedures require each Contracting Party to report every five years to the Compliance Committee on “the

---

<sup>5</sup> CBD/NP/MOP/DEC/3/1, paragraph 18(a).

<sup>6</sup> CBD/NP/MOP/DEC/5/5, Annex, see footnote (c).

<sup>7</sup> CBD/NP/MOP/DEC/5/5, paragraph 7(b).

<sup>8</sup> CBD/SBI/4/12, Table 1.

<sup>9</sup> C.1 Monetary benefits received in accordance with applicable internationally agreed access and benefit-sharing instruments.

<sup>10</sup> C.2 Non-monetary benefits arising from applicable international access and benefit-sharing instruments.

<sup>11</sup> C.b Number of countries that have taken effective legal, policy, administrative and capacity-building measures at all levels, as appropriate, to ensure the fair and equitable sharing of benefits from the utilization of genetic resources and from digital sequence information on genetic resources, as well as traditional knowledge associated with genetic resources.

measures it has taken to implement its obligations under the International Treaty”.<sup>12</sup> An online reporting system has been developed to facilitate reporting based on a Standard Reporting Format and all national reports are published on the website of the International Treaty.<sup>13</sup> At each regular session of the Governing Body, a synthesis and analysis of national reports are presented by the Compliance Committee.<sup>14</sup>

12. The Standard Reporting Format<sup>15</sup> focuses on compliance with the provisions of the Treaty. One of the implications that national reports provide primarily information on activities taken by Contracting Parties to implement the International Treaty, rather than experiences of stakeholders with the Multilateral System of Access and Benefit-sharing. In addition, reporting is limited, for obvious reasons, to the scope of the International Treaty: plant genetic resources for food and agriculture. However, national reports give a clear picture of non-monetary benefit-sharing in the Multilateral System, including of whether countries have provided or benefited from capacity-building, access to technology and information-sharing. In addition, information on monetary benefit-sharing is available from the Benefit-sharing Fund of the International Treaty, the operational mechanism for receiving, utilizing and sharing the monetary benefits arising from the Multilateral System.<sup>16</sup>

### III. IMPACT OF ACCESS AND BENEFIT-SHARING COUNTRY MEASURES

13. A review of ABS country measures, prepared at the Commission’s request and published in 2023, concluded “that there is a distinct lack of empirical evidence about the positive or negative effects of the measures accommodating directly or indirectly the distinctive features of GRFA on GRFA users, the conservation and sustainable use of genetic resources for food and agriculture, the sharing of benefits derived from them and food security. There is also a distinct lack of empirical evidence about how the specific measures have been implemented in practice (...).”<sup>17</sup>

14. In response, the Commission requested a report on the practical application of ABS country measures to the different subsectors of GRFA and associated traditional knowledge, including monitoring of ABS compliance, with a view to identifying the effects of ABS measures on the utilization and conservation of the different subsectors of GRFA and associated traditional knowledge and the sharing of benefits.<sup>18</sup> The Commission requested that the report be based on a survey and other sources of information.<sup>19</sup> The survey consisting of two online questionnaires, one addressed to the Commission’s National Focal Points/Coordinators and the National Focal Points for the International Treaty and the Nagoya Protocol, the other one addressed to providers and user of genetic resources, was launched on 18 July 2024 with a deadline for submission on 20 September 2024.

15. Both surveys had a very low response rate. The survey addressed to national focal points received less than 120 responses from 70 countries. Several respondents replied in multiple roles, i.e. national focal points for different sectors/instruments; a relatively large group of respondents replied in their roles as national focal points for plant genetic resources for food and agriculture and/or the International Treaty leaving other sectors of GRFA underrepresented in the survey. Not all respondents were able to reply to all questions.

16. The survey addressed to providers and user of genetic resources received 22 responses from users/providers in 16 countries. The sample size of 22 was too small to conduct any valuable analysis. The usefulness of the survey was further reduced by the fact that only 15 respondents reported that

---

<sup>12</sup> Procedures and Operational Mechanisms to Promote Compliance and Address Issues of Non-compliance, Governing Body Resolution 2/2011, as revised by Resolution 8/2023.

<sup>13</sup> <https://www.fao.org/plant-treaty/areas-of-work/compliance/compliance-reports/en/>

<sup>14</sup> Most recently: IT/GB-10/23/14.

<sup>15</sup> Resolution 7/2019.

<sup>16</sup> <https://www.fao.org/plant-treaty/areas-of-work/benefit-sharing-fund/bsf-overview/en/>

<sup>17</sup> Humphries, F., Laird, S., Wynberg, R., Morrison, C. Lawson, C. and Kolesnikova, A. 2023. *Survey of access and benefit-sharing country measures accommodating the distinctive features of genetic resources for food and agriculture and associated traditional knowledge*. FAO Commission on Genetic Resources for Food and Agriculture. First revision. Rome. <https://doi.org/10.4060/cb6525en>

<sup>18</sup> CGRFA-18/21/Report, paragraph 27.

<sup>19</sup> CGRFA-19/23/Report, paragraph 24.

either they or their institution have exchanged (provided or received) GRFA. Within these 15 respondents, the vast majority (12 out of 15) said that they were most familiar with plant genetic resources.

17. Due to the limitations described above, the draft report relied predominantly on secondary information, i.e. literature published between 2014 and 2024.

18. The report compares the impact of bilateral ABS measures, as envisioned by the Nagoya Protocol, with the impact of the multilateral ABS measures, such as those under the Multilateral System of the International Treaty, on the use and exchange of GRFA. It concludes that much of the literature is critical of the impact of bilateral ABS measures on the utilization of GRFA due to problems with (the diversity of) ABS country measures, procedural and institutional issues through to difficulties in negotiating ABS contracts that are fit for purpose. The report further notes that although there is widespread support for the International Treaty's approach with the Standard Material Transfer Agreement, there are challenges, including with regard to benefit-sharing, the scope of the Multilateral System and the availability of information on material that forms part of it. It is important to note that many of these challenges are currently being addressed by the Ad Hoc Open-ended Working Group to Enhance the Functioning of the Multilateral System of Access and Benefit-sharing, re-established by the Governing Body of the International Treaty, at its Ninth Session.<sup>20</sup>

19. As noted by the ABS Expert Team, a potential imbalance in the report's consideration of negative vis-à-vis positive effects of ABS measures may be due to a certain bias in the literature, which tends to identify problems with the implementation of ABS measures, rather than success stories. Existing literature also tends to ignore the important role ABS measures may play in raising awareness of the sovereign rights of states over their genetic resources, of Farmers' Rights, as recognized by the International Treaty, and of the roles and rights of Indigenous Peoples as custodians of much of the world's genetic resources.

20. Overall, the report concludes that further empirical research is needed to analyse the implications of ABS measures, including direct and indirect impacts, on the utilization of GRFA and associated traditional knowledge and the resulting benefits.

#### IV. GUIDANCE SOUGHT

21. The Commission may wish to:

- (i) take note of the draft report *The impact of access and benefit-sharing measures on use and exchange of genetic resources for food agriculture and associated traditional knowledge*;<sup>21</sup>
- (ii) request the Secretary to publish the finalized report and submit it to the Access and Benefit-sharing Clearing-House with a view to making it available for the second assessment and review of the effectiveness of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization;
- (iii) request the Secretary to revise the questionnaires in light of the responses received, repeat the survey on the basis of the revised questionnaires and present the results for consideration by the Commission at its Twenty-Second Session; and

---

<sup>20</sup> Contracting Parties agreed to work together towards adopting a package of measures to enhance the functioning of the Multilateral System with the aims of: (i) increasing the benefits that arise from the Multilateral System for all Contracting Parties and users, both monetary and non-monetary; (ii) increasing user-based income to the Benefit-sharing Fund in a sustainable and predictable long-term manner; (iii) expanding the crops and plant genetic diversity available through the MLS; (iv) improving the availability of plant genetic resources for food and agriculture in the Multilateral System; (v) making the Multilateral System more dynamic given that there are developments and emerging issues in science, innovation, plant breeding and global policy environment; and (vi) creating legal certainty, administrative simplicity and transparency for everyone participating in the system. IT/GB/9/22/Report, Resolution 3/2022, see also CGRFA-20/25/12.2.

<sup>21</sup> CGRFA-20/25/3.2/Inf.1.

- (iv) request the Secretary to continue monitoring developments regarding ABS in other fora relevant to the mandate of the Commission, and report on them to the Commission at its Twenty-first Regular Session.