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COMPILATION OF VIEWS, INFORMATION AND ANALYSIS ON THE ELEMENTS OF THE INTERNATIONAL REGIME ON ACCESS AND BENEFIT-SHARING

Note by the Executive Secretary

I. INTRODUCTION

1. At its seventh meeting, in decision VII/19 D, the Conference of the Parties decided to mandate the Ad Hoc Open-ended Working Group on Access and Benefit-Sharing with the collaboration of the Ad Hoc Open ended Inter-Sessional Working Group on Article 8(j) and Related Provisions to elaborate and negotiate an international regime on access to genetic resources and benefit-sharing with the aim of adopting an instrument/instruments to effectively implement the provisions in Article 15 and Article 8(j) of the Convention and the three objectives of the Convention.

2. In paragraph 8 of the same decision, the Conference of the Parties invited Parties, Governments, international organizations, indigenous and local communities and all relevant stakeholders, to submit to the Executive Secretary their views, information and analysis on the elements of the international regime as soon as possible and requested the Executive Secretary to compile the submissions received and to make them available through the clearing-house mechanism and other means for the Ad Hoc Open-ended Working Group on Access and Benefit-Sharing.

3. A notification and a reminder were sent to Parties inviting them to submit their views, information and analysis on the elements of the international regime. Ten submissions were received from Parties, relevant organizations and stakeholders. These are included in the compilation of submissions provided by Parties, Governments, relevant international organizations, indigenous and local communities, and relevant stakeholders (UNEP/CBD/WG-ABS/3/INF/1). In order to assist Parties in their consideration of this issue, the present document includes excerpts of submissions relating to the objectives, process, elements and other issues for consideration in the negotiations of an international regime. General observations provided in submissions are not reflected in this paper. Therefore, Parties are invited to consult the full text of the submissions available in the compilation referred to above.

* UNEP/CBD/WG-ABS/3/1.

II. COMPILATION OF VIEWS PROVIDED BY PARTIES AND RELEVANT ORGANIZATIONS ON THE ELEMENTS OF AN INTERNATIONAL REGIME

A. Objectives of the international regime.

4. The following views were provided with regard to the objectives of an international regime:

Brazil

5. With respect to the objectives of the international regime, Brazil is of the view that:

“The negotiation of the international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources (hereinafter ‘the international regime’) should have as its aim the adoption of a legally-binding instrument that effectively protects and guarantees the rights of countries of origin of genetic resources as well as the rights of indigenous and local communities in relation to their associated traditional knowledge.

“The international regime on benefit-sharing could also address the issue of access to genetic resources. However, in accordance with Article 15 (1) of the Convention, provisions related to access to genetic resources should not be a substitute for the national legislation of countries of origin of those resources, but rather serve as a mean to reinforce the implementation of this legislation.

“The international regime should also promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of traditional knowledge of indigenous and local communities relevant to biological diversity. The Conference of the Parties of the Convention has already recognized that the Convention on Biological Diversity is the primary international instrument with the mandate to address issues regarding the respect, preservation and maintenance of that knowledge. Where traditional knowledge associated with genetic resources is being accessed, the rights of indigenous and local communities over their traditional knowledge, including their right to fair and equitable sharing of benefits arising out of the utilization of that knowledge, should be respected and safeguarded.”

Colombia

6. Colombia is of the view that:

“(a) The international regime on access to genetic resources and benefit-sharing must start off with the recognition of the sovereignty of states to determine access to their genetic resources. Based on that understanding, an international regime of access does not have as aim to negotiate in a detailed way the conditions for granting access to genetic resources (which should be subject to national legislation) but rather, to agree on measures in order to guarantee that the national regimes of access to genetic resources are observed in countries using those resources, and that the rights of the countries of origin of genetic resources are respected.

“(b) The international regime on access does not have to be a regime of facilitated access, but rather a legal instrument whose aim would be to guarantee the fair and equitable sharing of benefits derived from the access to genetics resources.

“(c) The regime must contemplate mechanisms of compliance and observance, including instruments for legal sanctions, to guarantee the respect of rights of countries of origin of genetic resources and the fair and equitable sharing of benefits derived from the access to genetic resources.”

Japan

7. The following is a synthesis of a more elaborate contribution by Japan:

Japan has recognized the importance of biotechnology in the twenty-first century. Biotechnology will create new business opportunities, provided that access to genetic resources is facilitated for companies that use genetic resources. The experiences of researchers in academia and the private sector have indicated a number of obstacles that adversely affect access to genetic resources (e.g., insufficient information regarding competent authorities granting access, procedures, timing, uncertainty in the execution of the contract). In response to this situation, according to a survey targeted to bio-related industries, such as pharmaceutical and cosmetic industries, low level of interest in research that uses genetic resources from foreign countries was revealed. In conclusion, excessive regulation on access and benefit-sharing in provider countries would affect companies and lead to a reduction of activity or even withdrawal from genetic resources-based business.

8. On this basis, it is suggested that the first step to be taken in the negotiation of the regime is the following, which relates both to the objectives of the regime and process:

“It is therefore essential, as a first step, to strive to develop mutual understanding for the current situation as it applies to the fair and equitable sharing of benefits arising from the use of genetic resources between providers and users of genetic resources, instead of trying to immediately start discussions on the nature, scope and modalities of an International Regime. The most beneficial approach will be to discuss what steps we should take, and to identify practical arrangements that are truly necessary to develop such mutual understanding among stakeholders.”

Switzerland

9. Switzerland suggests the following approach in order to address the objectives of the international regime as a priority:

“Decision VII/19 does not contain any specific reference to the objectives of the international regime. The aim, set out in general terms in the first operational paragraph, is “of adopting an instrument/instruments to effectively implement the provisions in Article 15 and Article 8(j) of the Convention and the three objectives of the Convention.”

“In our opinion, one of the first priorities of the Working Group will be to clarify in a concrete and operational manner the objectives of the international regime. This work will need to be carried out according to a process defined by the terms of reference, that is on the basis of an analysis of national, regional and international legal instruments and other instruments related to access and benefit-sharing.

“(…)

“The following approach is suggested:

- To initiate a reflexion based on the following seven potential objectives, obtained by clustering, according to theme, the elements to consider, which are included in the terms of reference (roman numerals included in parenthesis correspond to the elements listed in the terms of reference):
 - Ensure the fair and equitable sharing of benefits (ii, iii, v, vi, vii, xii);

- Facilitate access for environmentally sound uses (iv, vii);
- Ensure the compliance with prior informed consent and mutually agreed terms (ix,x, xi, xiii, xiv, xx) including dispute settlement (xxi);
- Recognize and protect traditional knowledge (xv, xvi, xviii);
- Support capacity-building (xvii, xix);
- Promote and encourage collaborative scientific research (i) including technology transfer;
- Address the fact that some genetic resources may be located in more than one State, across national boundaries or beyond limits of jurisdiction (viii);
- To complete, if needed, this first outline, by reviewing the twelve objectives, listed under chapter I, section E of the Bonn Guidelines;
- To tackle the analysis of the needs and gaps, taking into consideration namely the following elements:
 - Specificity, priority, practicability;
 - A balance between rights and obligations as user and provider countries of genetic resources;
 - Clarification between what falls under national legislation and what necessitates a legal basis at the international level

“The setting out of the objectives will facilitate later discussions on the elements, scope and nature of the international regime.”

Venezuela

10. Among the list of points identified by Venezuela to constitute the way forward, those most directly related to the objectives of an international regime are the following:

“The ultimate result of the process and of the exercise is not clear, but it is assumed that it will be, at least, a legally-binding instrument. The meaning and scope of what constitutes a regime is not at all clear, especially if this word was used as a substitution of the idea of negotiating a legally-binding protocol, like the Cartagena Protocol on Biosafety.

“Interested parties (and not only Governments) must have a clear understanding of how the regime can solve practical problems that prevent benefit-sharing, and if these problems have been identified appropriately. Otherwise, there is the risk of negotiating an instrument whose final result does not allow to suitably resolve the underlying causes relating to the lack of fulfillment of the third objective of the Convention on Biological Diversity.”

Amigos de la Tierra

11. According to Amigos de la Tierra, the necessity of an international regime would be to address unauthorized access:

“The need for an international regime on access and benefit-sharing was based on the necessity of fighting biopiracy. This activity ensures the control of genetic resources for private and commercial uses and is therefore considered to be not only theft or pillage but also a practice that increases ecological debt. We would therefore affirm that combatting biopiracy is to fight against such appropriation and privatization of genetic resources and for the strengthening of the collective rights enunciated in the Convention on Biological Diversity. Nevertheless, after reviewing what has been agreed, we think that the fight

against biopiracy has not only been delayed, it is not even beginning; rather, it is a step toward its legalization. It reinforces the tendency see nature and natural resources as marketable goods, as is the case when our resources are privatized.”

B. Process

12. Suggestions provided by Parties and stakeholders relating to the way forward in terms of process in the negotiation of the international regime include the following:

European Community and its member States

“In conformity with this process, the European Union is of the view that an exhaustive analysis of existing legal and other instruments at national, regional and international levels relating to access and benefit-sharing needs to be conducted to enable the Working Group to identify gaps and ways to address them. Decision VII/19 does not clarify who should do this analysis. Therefore, the Working Group on Access and Benefit-sharing should, in its next meeting, clarify who should be asked to accomplish this task. This should preferably be an independent/neutral body with specific competence/expertise in this field.”

Japan

13. Following the assessment by Japan of the current situation regarding access and benefit-sharing, as set out in section A above, the following process is suggested:

“Regarding an international regime

“After achieving mutual understanding on the issues discussed in [the submission of Japan in section A above], we consider it necessary to conduct a rational discussion on how to clarify the basic premises for constructing an international regime. In our view, it would be difficult even to start a discussion without clarifying these points.

“Clarification of what is to be regulated

“Whatever regulatory systems were to be introduced, the objects to be regulated would need to be specified. If we consider a legally binding international regime for access and benefit-sharing, it is necessary to determine how all the items of genetic resources would be specified. Besides, if genetic resources existing all over the world should be specified, it would be difficult to construct the workable system for an international regime.

“Prior informed consent (PIC)

“If any regulatory system were to be introduced to implement this measure, we would (1) have to clarify who would issue PIC certificates, (2) have to clarify the procedure to issue them, and (3) need to conduct the process speedily. To achieve all these goals, providing countries would need to build infrastructure and train personnel at significant cost and time. A number of industry sectors have concerns that this approach would be unrealistic.

“Non-discrimination against foreigners in access and benefit-sharing regulation

“Japan’s social and economic system takes it for granted that sustainable use of genetic resources and fair benefit sharing will be promoted in a general way. This leads us to believe that regulation for implementing benefit-sharing should apply equally, whether users are foreigners or inhabitants of the providing country/country of origin. If we were to consider a legally-binding international regime, there is a concern that such a legally-binding international regime might encourage discrimination against foreigners, which has already occurred in some countries.”

Switzerland

14. The views set out above under section A regarding the need to address the objectives of an international regime also relate to the process to be adopted.

Venezuela

15. Venezuela put forward the following views in relation to the process to be adopted:

“Countries could consider what type of temporary measures must be put in practice pending the completion of the negotiation process. Decision VII/19 calls upon Parties to implement measures in countries with users (information exchange, incentives, etc), which can help fulfil the aspirations that have led to the negotiation of the regime.”

C. Elements of an international regime

16. The views provided with respect to elements for consideration in the elaboration of an international regime include the following:

Brazil

“Among the elements listed in [the annex to] decision VII/19 D of the Conference of the Parties, the Brazilian Government suggests that the discussions on the international regime should focus on the following ones:

- Measures to ensure compliance with national legislations on access and benefit-sharing, prior informed consent and mutually agreed terms, consistent with the Convention on Biological Diversity;
- Measures to ensure compliance with prior informed consent of indigenous and local communities holding traditional knowledge associated with genetic resources, in accordance with Article 8(j);
- Measures to ensure compliance with the mutually agreed terms on which genetic resources were granted and to prevent the unauthorized access and use of genetic resources consistent with the Convention on Biological Diversity;
- Addressing the issue of derivatives;
- Internationally recognized certificate of origin/source/legal provenance of genetic resources and associated traditional knowledge;
- Disclosure of origin/source/legal provenance of genetic resources and associated traditional knowledge in applications for intellectual property rights;
- Recognition and protection of the rights of indigenous and local communities over their traditional knowledge associated to genetic resources subject to the national legislation of the countries where these communities are located;
- Monitoring, compliance and enforcement.”

European Community and its member States

17. The European Community and its member States provided the following priority elements for consideration:

“At this stage, the European Union will set out its preliminary views on the above request from the Conference of the Parties concerning the elements for the international regime as agreed at the seventh meeting of the Conference of the Parties. As some of these elements are part of “*existing legal and other instruments at national, regional and international levels relating to access and benefit-sharing*“, this will be our first contribution to the above-mentioned analysis.

“The annex to decision VII/19 D, contains under (d) a long list of elements to be considered by the Working Group. This list also contains some redundancies. The European Union will only focus on a selected number of elements to which it attaches particular importance.

“(i) Measures to promote and encourage collaborative scientific research, as well as research for commercial purposes and commercialization, consistent with Articles 8(j), 10, 15, paragraph 6, paragraph 7 and Articles 16 18 and 19 of the Convention;

“Element (i) comprises two important elements:

“First, that of differentiation between scientific research and research for commercial purposes. In some instances it may be desirable to encourage collaborative scientific research through a range of measures including, for example, differentiated and simpler procedures such as non-commercial material transfer agreements.

“Second, among the measures to promote research consistent with the Convention on Biological Diversity, there is a need to highlight the importance of identifying best practice and its dissemination among sectors and across sectors. In this context, the Action Plan for Capacity-Building in decision VII/19 F, calls repeatedly for the identification of practices, in particular best practice and its dissemination along with case-studies (see paragraph 9 (e) of the Action Plan on actions at the regional and sub-regional levels and at the international level).

“In our view, elements (ii), (iv), (xiii) and (xiv) of paragraph (d) of the terms of reference, as reported below, deserve particular attention. They express the two sides of the access and benefit-sharing debate by highlighting to need to facilitate access to genetic resources for environmentally sound uses and the need to ensure that the fair and equitable sharing of the benefits arising from the use of these resources takes place:

“(ii) Measures to ensure the fair and equitable sharing of benefits from the results of research and development and the benefits arising from the commercial and other utilization of genetic resources in accordance with Articles 15.7, 16, 19.1, 19.2 of the Convention;

“(iv) Measures to promote facilitated access to genetic resources for environmentally sound uses according to Article 15.2 of the Convention on Biological Diversity;

“(xiii) Internationally recognized certificate of origin/source/legal provenance of genetic resources and associated traditional knowledge;

“(xiv) Disclosure of origin/source/legal provenance of genetic resources and associated traditional knowledge in applications for intellectual property rights;

“The views of the European Union on these two types of measures are largely expressed in sections 3) and 5) of [the submission of the European Community and its member States], which contains a number of examples of how the European Union contributes to the development of such measures at national, regional and international level.

“The European Union also attaches great importance to three other elements outlined in paragraph (d):

“(xv) Recognition and protection of the rights of indigenous and local communities over their traditional knowledge associated to genetic resources subject to the national legislation of the countries where these communities are located;

“(xvi) *Customary law and traditional cultural practices of indigenous and local communities;*

“(xvii) *Capacity-building measures based on country needs.*

“In the further development of the international regime on access and benefit-sharing, it will be essential to protect the rights of indigenous and local communities over their traditional knowledge. The European Union is supportive of the development of an international *sui generis* model for the legal protection of traditional knowledge and is hopeful that progress will be made on this in the framework of WIPO’s Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore and in the Working Group on Article 8(j) of the Convention on Biological Diversity. Any such system shall be compatible with the customary law and traditional cultural practices of indigenous and local communities and be developed with their approval and involvement.

“The European Community also considers it essential for a functioning international regime to address capacity-building needs. The annex to decision VII/19 F of the Conference of the Parties contains an Action Plan on Capacity-Building for Access and Benefit-Sharing, which provides a framework for identifying country, indigenous and local community and all relevant stakeholder needs, priorities, mechanisms of implementation and sources of funding. The implementation of this Action Plan will greatly contribute to build the capacities of Parties to manage and develop their genetic resources and should contribute to the conservation and sustainable use of biological diversity.

“With regard to paragraph (xxiii) of the terms of reference, on ‘Relevant elements of existing instruments and processes’, the European Union is pleased to note that the terms of reference reflect the European Union view that a number of elements of an international regime on access and benefit-sharing already exist, including measures taken in application of Article 15 of the Convention on Biological Diversity, and should be the starting point for any discussion on further developments. Among them we recall the following to which we attach particular importance:

- The Bonn Guidelines represent a central element of the international regime on Access and Benefit-Sharing under the Convention on Biological Diversity. In this respect, present and future reports by Parties on the use they have made of the *Bonn Guidelines* at national and regional level provide essential information in order to review and revise the Guidelines if necessary.
- In addition, the developments of “*other approaches*” also provide further elements for the international regime.
- Similarly, possible outcomes of the work of the *Working Group on Article 8(j) of the Convention on Biological Diversity* and of the *United Nations Permanent Forum on Indigenous Issues* could provide valuable inputs, in particular in relation to traditional knowledge.
- The European Union also recognizes the fundamental importance of the *International Treaty on Plant Genetic Resources for Food and Agriculture*. The recent entry into force and the implementation of this Treaty, in particular through its standard material transfer agreement, will make it an important element of the international regime on ABS.
- Other existing elements include relevant provisions of the *TRIPs* Agreement; different intellectual property instruments administered by *WIPO*, and relevant provisions of the *UPOV* Conventions. Further developments in these fora may be of great importance for the international regime on Access and Benefit-Sharing and the European Union is committed to playing a constructive and coordinated role in

them. This is true for instance for the issue of ‘disclosure of origin’ in intellectual property rights applications.

- The European Union believes that the analysis of the effectiveness of the instruments we have mentioned and of their on-going development as well as the enhancement of synergies among them should be the basis for further work on Access and Benefit-Sharing under the Convention on Biological Diversity.”

Japan

18. The views of Japan set out in section B above regarding the process to be adopted also relate to the elements to be included in an international regime.

Switzerland

19. The approach suggested by Switzerland, included under section A above on the objectives of an international regime, suggests that elements for consideration have already been established in the terms of reference included in annex to decision VII/19 D and puts forwards a proposal to address these elements by clustering them in view of identifying the objectives of the international regime.

Venezuela

20. Venezuela stressed that the protection of traditional knowledge is to be taken into consideration and that the issue of a certificate of origin/source/legal provenance needs to be further considered.

“It is important to emphasize that although the Johannesburg Plan of Implementation refers solely to the safeguard of benefit-sharing derived from the use of the genetic resources, decision VII/19 includes likewise the protection of traditional knowledge (Article 8(j)).

“(....)

“Finally, decision VII/19 mentions throughout its text, the denominated certificate of legal origin/source/legal provenance as a central element of the regime; this is something that has to be discussed.”

The Pharmaceutical Research and Manufacturers of America (PhRMA)

21. The Pharmaceutical Research and Manufacturers of America (PhRMA), suggest the following as essential elements for a binding international regime on access and benefit-sharing:

“Essential elements of the industry for a binding international agreement on access and benefit-sharing:

- It would follow a contractual model with up-front full disclosure and transparency, in the larger context of an international agreement signed by members of the Convention on Biological Diversity. Prior to removal of any genetic resources from the territory of a member of the Convention on Biological Diversity, companies would be required to enter into agreements or memoranda of understanding (MOUs) with members of the Convention on Biological Diversity as owners of the genetic resources and/or the traditional knowledge. These agreements would spell out benefit-sharing arrangements and would include sanctions for non-compliance.
- Members of the international agreement would be obliged to establish and maintain a database of all non-human genetic resources found within their borders and all traditional knowledge attaching to those genetic resources. The database would provide certainty and predictability by including reference to the “owners” of the traditional knowledge. (This is similar to the focal points included in the Bonn Guidelines.)

- The international agreement would also include a commitment by Member Countries of the Convention on Biological Diversity to establish and maintain a national registry that would track the individual agreements (“MOUs”) negotiated under the terms of the international agreement. Member registries of the Convention on Biological Diversity would not disclose business sensitive terms of the MOUs, but would provide information on the genetic resources, private party, and the date of the agreement.
- Companies failing to enter benefit-sharing agreements prior to conducting *in situ* bio-prospecting, or to otherwise disclose bio-prospecting activities, would face possible civil penalties under the terms of the agreement, including, for example, suspension of rights in the country and links to the research institutions, suspension of visas, a civil monetary penalty, etc.
- International arbitration or other possible dispute settlement processes could be developed to ensure enforcement of commitments made between parties.
- Developed country members would be obligated to provide technical and capacity-building assistance to accelerate the ability of developing country members to negotiate effectively with companies.”

C. Additional issues for consideration

22. Some Parties, relevant international organizations and stakeholders raised additional issues for consideration in the elaboration of the international regime.

Venezuela

23. Venezuela referred to capacity-building needs both in the context of the negotiation of the regime and with respect to the implementation of the regime once it is adopted. The need to establish synergies with other international processes is also highlighted.

“The negotiation process can distract legislative and national policy initiatives or at least affect them. Simultaneously, developing countries will need to strengthen their capacities for international negotiation, particularly due to the vagueness that still persists with respect to the nature and particularly the concrete content of the regime. The measures that the regime may contain could also entail new legislative objectives and modifications to national legal frameworks.

“In relation to the previous paragraph, the regime will also bring uncertain legal changes and modifications for developing countries (taking into account, additionally, that according to what decision VII/19 recognizes, all countries are users and providers of resources). This factor can influence national projects for the establishment of access norms. It is important to know clearly the needs in terms of capacity building that the regime could bring with itself.

“An important effort will be required in order to establish synergies with other international processes.”

The Food and Agriculture Organization of the United Nations (FAO)

24. According to FAO:

“An international regime on access and benefit-sharing should take full account of existing instruments and of the on-going work of the FAO's Commission on Genetic Resources for Food and Agriculture.

“In particular, it should:

- Recognize the role and status of the International Treaty on Plant Genetic Resources for Food and Agriculture and its Multilateral System of Access and Benefit-Sharing and, if appropriate, exclude it from the scope of the international regime;
- Not contain language that may appear to define the scope and coverage of the Treaty and its Multilateral System, which is the sole prerogative of the Contracting Parties to the Treaty; and
- Provide space for the possible development of a regulatory framework for farm animal genetic resources and other genetic resources of interest to food and agriculture, including on access and benefit-sharing, which takes account of the special needs of agriculture, should the FAO Commission consider this appropriate.”

International Union for the Protection of New Varieties of Plants (UPOV)

25. In relation to the international regime, UPOV put forward the following views:

“UPOV supports the view that the Convention on Biological Diversity (CBD) and relevant international instruments dealing with intellectual property rights, including the UPOV Convention, should be mutually supportive. Therefore, UPOV recommends that any international regime on access to genetic resources and benefit-sharing should be established and implemented in harmony with the UPOV Convention which provides an effective system for the protection of new varieties of plants while safeguarding access to plant genetic resources in the form of protected varieties and benefit-sharing.”

The Pharmaceutical Research and Manufacturers of America (PhRMA)

26. According to the Pharmaceutical Research and Manufacturers of America (PhRMA):

“An intellectual property-based approach to access and benefit-sharing that affects patentability is undesirable. It would raise important practical difficulties, threaten certainty in patent rights and result in very little benefit to the owners of the genetic resources and traditional knowledge. Should a patent be rescinded or not granted, there would be no benefits to share, and future investments in natural products development would be chilled. Furthermore, an approach that relies solely on the sharing of revenue streams from patents fails to take into account other benefits, such as technology transfer and capacity building assistance, that are not linked to patenting, which could accrue to developing countries in exchange for access to their genetic resources. Finally, support for a patent-based approach in the Convention on Biological Diversity may be more limited than we had previously assumed - there are a number of different groupings of developing countries that may prefer an alternative system.”

III. CONCLUSIONS AND RECOMMENDATIONS

27. As can be seen from the compilation of views in section II above, different countries place special and specific emphasis on different elements of an international regime on access to genetic resources and benefit-sharing. However, these different priorities and concerns are not mutually exclusive and could be accommodated within such a regime.

28. As a first step in the negotiation of an international regime, the Working Group will need to reach agreement on how to approach the negotiation. In particular, delegates will need to agree on the objectives and structure of the international regime. The Conference of the Parties, in the annex to its decision VII/19 D, has provided some guidance in this regard. Indeed, with respect to the nature of the international regime, the terms of reference of the Working Group provide that “the international regime could be composed of one or more instruments within a set of principles, norms, rules and decision-making procedures.”

29. Some submissions have underlined that a number of existing instruments should be regarded as part of the international regime. Against this background, the Working Group may wish to consider

/...

whether (a) new instrument(s) is/are needed to become the core element(s) of an international regime on access to genetic resources and benefit-sharing. The core instrument(s) could refer to other existing instruments, as appropriate. Taken together, the core instrument(s) and the complementary existing instruments, as appropriate, would constitute the international regime. Should the Working Group decide to adopt such an approach, a successful outcome for the meeting could be to reach agreement on the objectives and on the structure of the international regime, on the basis of the elements set out in the terms of reference.
