Keidanren
Policy & Action

Position Paper on the COP16 Decision on a Mechanism for Benefit-Sharing from the use of Digital Sequence Information on genetic resources

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1. Introduction

The 15th meeting of the Conference of the Parties (COP15) to the Convention on Biological Diversity (CBD), held in December 2022, agreed to establish as part of the Kunming-Montreal Global Biodiversity Framework (GBF) a multilateral mechanism for benefit-sharing from the use of Digital Sequence Information (DSI) on genetic resources and to examine the details of this mechanism in preparation for COP16.

COP16, held in Cali, Colombia from October 21 to November 1, 2024, subsequently agreed on the broad framework for a multilateral mechanism for DSI benefit-sharing and to establish a global fund, named the Cali Fund, into which contributions will be made (below, "the COP16 Decision").[1]

Given that the loss of biodiversity could severely impact not only the bioindustry but also people's lives, undermining the foundations of a sustainable society, we understand the utility of a global fund into which entities that benefit from DSI usage contribute a portion of those benefits toward biodiversity conservation and the achievement of nature-positive outcomes.[2] Since the use of DSI can play an important role in biodiversity conservation and the achievement of nature-positive, the sustainable expansion of corporate activities that make industrial use of DSI is essential to achieve those biodiversity goals.

While details such as contribution rates based on sales and profits, as well as the size

[1] Decision 16/2, https://www.cbd.int/doc/decisions/cop-16/cop-16-dec-02-en.pdf
[2] Namely, halting and reversing biodiversity loss to put nature on a path to recovery https://policies.env.go.jp/nature/biodiversity/j-gbf/about/naturepositive/ (Japanese only)

of target companies, are to be considered ahead of COP17 in Armenia in 2026, there are a significant number of issues in the COP16 Decision that must be addressed before it can be effectively implemented.

Additionally, while startups and various other businesses are developing biotechnologies and business applications thereof toward establishing a bioeconomy, monetization remains challenging for all but a few, and most biotech firms still require public funding and other government assistance. Given these circumstances, pressing for contributions to the Cali Fund could discourage engagements of relevant industries and corporates with biotechnology and might even lead to a reduction in support initiatives for developing countries that companies have implemented to date[3].

Below we present our views on points that we believe that the CBD Secretariat and Japanese government should consider ahead of COP17 so as to promote both nature-positive outcomes and a bioeconomy.

2. Basic Stance of Japanese Industry

(1) Need for a sustainable fund framework

As the COP16 Decision states that financial contributions to the Cali Fund are not legally mandated but rather voluntary, the wills of member countries, industry associations, and individual companies should be respected when it comes to those sectors which will contribute to the Fund, as well as contribution rates.

Moreover, the sustainability of the fund will require: (a) balancing benefits and contributions to ensure the sustainable development of the bioeconomy, and (b) introducing incentives that grow the contribution base by boosting the number of companies and products using DSI so as to achieve nature-positive outcomes. In addition, establishing a sustainable fund would again require a clear explanation of the

[3] Practical guidance and education and training on local capacity building in developing countries, flexible pricing policies, etc.

rationale for allocating the benefits arising from the use of DSI to achieve nature positive.

(2) Potential impediments to bioeconomy development

We are concerned that pressure to contribute to the Cali Fund may prompt a string of companies around the world to pull out of business handling DSI-based products and services and avoid the use of DSI, causing long-term harm to innovation and technological advancement, and, potentially, the advance of the bioeconomy. This would also mean stagnation or regression in solving social challenges through biotechnology applications.

Specific impacts could include reduced business feasibility due to higher costs and the curtailment of investment in R&D and business development in response to falling profits. In addition, while it is still unclear which entities in the supply chain should contribute at which stage, should contributions be required at multiple levels of the supply chain, this could lead to multiple price pass-throughs for related products and services, imposing a greater economic burden on end-users of those products and services that would inhibit market growth for bioproducts.

3. Views on specific issues in the DSI benefit-sharing mechanism

As noted above, since contributions to the Cali Fund are voluntary rather than legally binding, we believe that the selection of contributing sectors and contribution rates should respect the wills of respective member countries, industry associations, and individual companies.

On that basis, our views on specific issues in the DSI benefit-sharing mechanism as decided at COP16 are as follows:

(1) List of sectors that may directly or indirectly benefit from the use of DSI on genetic resources (Annex Para. 3 and Enclosure I)

When creating and reviewing the list of sectors that may directly or indirectly benefit from the use of DSI, it is essential to clarify the definitions of "use of DSI" and "directly or indirectly benefit from the use of DSI," and to have careful discussions that involves stakeholders from each sector, as well as compelling explanations.

As the degree of the use of DSI varies significantly even among companies within the same sector, a one-size-fits-all approach to companies within a sector would be unreasonable. A full investigation must be undertaken of actual DSI usage in each sector, with the sector list carefully compiled based on that information. In addition, it is not appropriate to include the "biotechnology" sector in the sector list because the term is not defined and the intended industry and scope are too unclear.

While the COP16 Decision states that financial contributions are not required of entities that do not "directly or indirectly use digital sequence information," it fails to define the meaning of this phrase. Careful consideration must be given in defining the scope of "indirect use." Furthermore, no method is stipulated for proving that DSI was not used, and there are concerns about the costs associated with providing that proof.

(2) Contribution rates (Annex Para. 3)

The indicative contribution rate of 0.1% of total company revenue or 1% of profit indicated in the COP16 Decision would have a significant impact on business management and could lead some companies to exit from business using DSI.

The contribution rate therefore needs to be specified with consideration to a balance between the level of benefit from the use of DSI and the contribution burden. One approach might be to base the contribution rate on profit from the business using DSI rather than on overall company revenue or profit. If the company's DSI-based business does not generate a profit, it should be exempt from contributions. It should be self-reported by each company as to which of its businesses fall under the category of DSI-using businesses.

(3) Size of contributing entities (Annex Para. 3)

Participation of broad stakeholders will be essential for achieving nature-positive outcomes because all people and companies on Earth benefit from biodiversity to varying degrees. Rather than uniformly defining contributing entities by size, therefore, they should be specified based on the status of their DSI use with clear definitions pertaining to its use.

Further, from the perspective of growing the contribution base, all companies using DSI, not only those in the developed countries but also those in the developing countries, should be targeted as potential contributors.

(4) Contribution incentives (Annex Para. 13)

Effective operation of the Cali Fund toward achieving nature-positive outcomes will require establishing appropriate incentives so that financial contributions for DSI benefit-sharing become a business advantage, leading to more companies using DSI and, consequently, a spontaneous increase in fund contributions.

Consideration should accordingly be given to introducing incentives such as the following:

- Preferential treatment for business: Boost transparency by announcing contributors who wish to be made public. Create a symbolic logo and introduce a system that permits the use of this to enhance corporate and business image[4].
- Tax breaks (domestic measure): Introduce tax breaks such as treating Cali Fund contributions as designated donations.
- DSI innovation support (domestic measure): At the same time, introduce support

[4] Chapter 2, Section 1-4 and 5 of the "Guidelines for the Fair and Equitable Sharing of Opportunities to Acquire Genetic Resources and the Benefits Arising from Their Utilization" in Japan stipulate that the request of the person reporting the information shall be accommodated with respect to the release of information.

measures to promote R&D and innovation utilizing DSI, with that support not restricted to contributors.[5]

(5) Avoidance of double payments (Annex Para. 26 and 27)

In cases where the new DSI benefit-sharing mechanism could be applied in a double or multiple manner to the laws and regulations related to Access to genetic resources and Benefit-Sharing (ABS) mechanism in each country, laws and regulations related to DSI, and similar benefit sharing mechanisms in other treaties, the possibility of double or multiple payments must be legally excluded.

(6) Cali Fund governance (Annex Para. 28 and Enclosure IV)

It will be essential to ensure transparency in the governance of the Cali Fund Steering Committee and to maintain organizational integrity through regular rotation of the chair and members.

It will also be vital that not only Cali Fund recipient countries, but also major contributing countries are included as Steering Committee members. In order to achieve the mission of the GBF, careful and transparent discussions on the use of the Cali Fund are necessary, and KPIs and KGIs should be established to evaluate the Cali Fund's contribution to biodiversity, the status of fund allocation and initiatives of recipient countries. The results of those evaluations should be disclosed.

(7) Multilateral mechanism modalities (CBD Secretariat Notification 2024-114)

In terms of possible additional modalities of the MLM, some CBD member countries propose a contribution option based on products using DSI in addition to the sector-based contribution method. While some companies with low overall use of DSI may

[5] Horizon Europe identifies biodiversity as a key focus area in its 2025–2027 strategic plan and commits to dedicating 10% of its total budget to this area.

positively consider the product-based contribution option, the MLM must be simple and easy to comply with, and this should be ensured even if the product-based contribution is introduced.

Given the practical difficulty of ensuring the traceability of DSI use for all products handled in business activities and proving DSI use or non-use for each individual product, it should be self-reported by each company as to which businesses are DSI-using businesses.

In terms of the contribution payment method, the payment process should basically be kept simple, taking into account factors such as the operating costs for companies and institutions, the effectiveness of the Cali Fund, and prevention of illegal transfers. However, in cases where benefits are already being paid to the country of origin/provider or fund through other benefit-sharing mechanism, these should be excluded from Cali Fund contributions to avoid double payments.

(8) Thresholds for Cali Fund contributions from entities directly or indirectly benefiting from DSI use in commercial activities and domestic and international standards for distinguishing small, medium and large entities (CBD Secretariat Notification 2024-116)

Based on the approach outlined in 2.(1) above, it is essential to design a system that both (a) maintains a balance between benefits and contributions toward the ongoing development of the bioeconomy and (b) grows the contribution base by boosting the number of companies and products using DSI.

4. Requests to the Japanese Government

With Japan currently implementing the Bioeconomy Strategy[6] created in June 2024,

[6] Integrated Innovation Strategy Promotion Council Decision, June 3, 2024, https://www8.cao.go.jp/cstp/english/bio/bio_economy_en.pdf

Japanese government should conduct international negotiations strategically and carefully consider domestic measures so as not to hamper public and private sector efforts for the bioeconomy.

It is essential to clarify where responsibility lies among the ministries and agencies involved in this mechanism, including the Ministry of Agriculture, Forestry and Fisheries, the Ministry of Health, Labor and Welfare, and the Cabinet Office which is responsible for compiling the Strategy, in addition to the Ministry of Foreign Affairs, the Ministry of the Environment, and the Ministry of Economy, Trade and Industry. A high-level official should then be appointed to lead cross-governmental discussions and coordinate and summarize the opinions of the various ministries and agencies[7].

Based on the points discussed above, we strongly urge the Japanese government to design domestic measures that balance the advancement of Japan's bioindustry and enhancement of international competitiveness with the promotion of voluntary contributions from companies. The introduction of contribution incentives such as tax breaks and innovation support measures so as to expand the contribution base should be examined based on full consideration of industry views.

COP17 will be a critical opportunity to discuss and determine the details of the DSI benefit-sharing mechanism. While keeping a close eye on developments in other developed countries, we strongly expect the Japanese government to participate in the steering committee of the Cali Fund as frontrunning country of biotechnology and regional representatives of the CBD member countries, and to exercise leadership in international discussions.

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[7] In the pharmaceutical industry, which is listed in the Enclosure I, a unique problem arises in that cost increases cannot be passed on to product prices because drug prices are officially fixed in Japan. In addition to ensuring business sustainability and competitiveness, the MHLW needs to be actively involved in discussions from the perspective of sustainable social security in Japan. In the biomanufacturing field, METI should also promptly begin discussions on measures to address issues such as the cost of converting from existing industrial processes and price competition with existing products.

5. Conclusion

Through the Keidanren Nature Conservation Fund, Keidanren has been engaged in a range of activities from disseminating information aimed at preserving biodiversity and achieving nature-positive outcomes to providing recommendations in relation to international targets and domestic policies for biodiversity.

We have also foregrounded the idea that the evolution of biotechnology has the potential to bring about biotechnological transformation—in other words, transforming the very nature of society itself by providing solutions to societal issues including the reduction of greenhouse gases, the conservation of biodiversity through the reduction of deforestation, and resource constraints in the food and energy sectors, while at the same time delivering sustainable economic growth—and have actively pursued that transformation.

We expect the Cali Fund to be sustainably operated as an effective fund that contributes to the realization of both nature-positive outcomes and biotechnological transformation.