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**INTERGOVERNMENTAL COMMITTEE ON
INTELLECTUAL PROPERTY AND GENETIC RESOURCES,
TRADITIONAL KNOWLEDGE AND FOLKLORE**

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**STRUCTURE OF PROPOSED DATABASE OF CONTRACTUAL PRACTICES AND
CLAUSES RELATING TO INTELLECTUAL PROPERTY, ACCESS TO GENETIC
RESOURCES AND BENEFIT-SHARING**

prepared by the Secretariat

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I. INTRODUCTION

1. At the first session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the “Committee”), held in Geneva from April 30 to May 3, 2001, the Committee expressed support for Task A.1, that is, the development of “guide contractual practices, guidelines, and model intellectual property clauses for contractual agreements on access to genetic resources and benefit-sharing, taking into account the specific nature and needs of different stakeholders, different genetic resources, and different transfers within different sectors of genetic resource policy.”¹

2. At the second session of the Committee, held in Geneva from December 10 to 14, 2001, the Committee considered a document entitled “Operational Principles for Intellectual Property Clauses of Contractual Agreements Concerning Access to Genetic Resources and Benefit-Sharing” (WIPO/GRTKF/IC/2/3).

3. This document provided information on existing intellectual property clauses and contractual practices for access and benefit-sharing, and offered options relating to the development of non-binding guide contractual practices, guidelines and model intellectual property clauses for consideration by the Committee. The information contained in this document was largely based upon existing contractual agreements which had been analyzed or referred to in previous World Intellectual Property Organization (“WIPO”) documents. It did not aim to present a representative sample of relevant agreements and practices.

4. In order to obtain a representative sample of relevant agreements and practices, it was therefore proposed that the International Bureau of WIPO undertake a systematic survey of actual contractual agreements, including a questionnaire to be sent to Committee members and other stakeholders, as appropriate. Furthermore, contributors would be invited to provide experiences, examples and case studies of contractual practices and agreements for a compilation of existing intellectual property clauses and agreements. This compilation could serve as a basis for the systematic and balanced development of guide contractual practices, guidelines and model intellectual property clauses which would reflect the operational principles agreed and identified by Committee members.²

5. In addition, the Delegation of Australia presented the Committee with a document entitled “Proposal for the Compilation of Contractual Terms for Access to Genetic Resources and Benefit-Sharing,” (WIPO/GRTKF/IC/2/12). This document proposed a “Summary Checklist of Key Contractual Intellectual Property Terms on Access to Genetic Resources and Benefit Sharing” that would provide a searchable format for an electronic database, which would be published on the WIPO web site and hyper-linked to the web site of the Clearing House Mechanism (“CHM”) of the 1992 Convention on Biological Diversity (“CBD”).

6. The Committee expressed support for these proposals. It decided that the Secretariat of WIPO should undertake a systematic survey of actual contractual agreements, including a questionnaire to be sent to Committee members and other stakeholders, as appropriate. Results of the questionnaire would be compiled into an electronic database and could serve as

¹ See document WIPO/GRTKF/IC/1/13, paragraph 128.

² See document WIPO/GRTKF/IC/2/3, paragraphs 131 to 134.

a resource on guide contractual practices, guidelines and model intellectual property clauses for contracts concerning access to genetic resources and benefit-sharing.

7. The Committee agreed that the Secretariat of WIPO should first prepare the structure under which the proposed database could be developed and that this should be submitted to the Committee for comment.

8. Accordingly, the Secretariat of WIPO developed the structure of a searchable, electronic database. The proposed structure was sent to the Committee for comment in a document entitled, "Call for Comments on Structure of Proposed Database of Contractual Practices and Clauses Relating to Intellectual Property, Access to Genetic Resources and Benefit-Sharing" (WIPO/GRTKF/IC/3/3).

9. Comments received by the Secretariat of WIPO have been reflected in the revised structure for a database of contractual practices and clauses relating to intellectual property, access to genetic resources and benefit-sharing, contained in Annex I to this document.

10. Furthermore, as part of the systematic survey of actual contractual agreements requested by the Committee, the Secretariat of WIPO has prepared a questionnaire on contractual practices and clauses relating to intellectual property, access to genetic resources and benefit-sharing. The questionnaire is contained in Annex II to this document.

11. Subject to approval by the Committee, this questionnaire will be disseminated to Committee Members and a wide range of stakeholders with practical experience of contractual practices and agreements relating to intellectual property, access to genetic resources and benefit-sharing. Results of the questionnaire will be compiled and published in the proposed database and could serve as a resource on guide contractual practices, guidelines and model intellectual property clauses for contracts concerning access to genetic resources and benefit sharing.

12. The Members of the Intergovernmental Committee are invited to take note of the contents of the present document; to approve the structure of the database set out at Annex I and the dissemination of the questionnaire set out at Annex II to Committee Members, and a wide range of stakeholders with practical experience of contractual practices and agreements relating to intellectual property, access to genetic resources and benefit-sharing.

[Annex I follows]

ANNEX I

PROPOSED DATABASE OF CONTRACTUAL PRACTICES AND CLAUSES
RELATING TO INTELLECTUAL PROPERTY,
ACCESS TO GENETIC RESOURCES AND BENEFIT-SHARING

I INTRODUCTION

1. The purpose of this database is to provide a concise and user-friendly source of information to all those parties involved in drafting and negotiating contractual agreements on access to genetic resources and benefit-sharing, with particular emphasis on the intellectual property aspects of such contracts.
2. Committee members of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, together with a wide range of stakeholders with practical experience in contracts for access to genetic resources and benefit-sharing, will be asked to complete a questionnaire of contractual practices and clauses relating to intellectual property, access to genetic resources and benefit-sharing.
3. The replies received to the questionnaire will be compiled and published in this electronic database and could serve as a resource on guide contractual practices, guidelines and model intellectual property clauses for contracts concerning access to genetic resources and benefit sharing.

II EXPLANATION OF THE STRUCTURE AND CONTENT OF THE DATABASE

4. The database will consist of the following ‘pages’:

4.1 Page One: Title Page

This will give a brief explanation of the purpose of the database, of how the information compiled in the database was obtained and will indicate the Terms of Use which will apply to the database.³ It will provide a link to the ‘Search’ page.

4.2 Page Two: Search Page⁴

The Search Page will consist of two distinct types of search mechanisms:

- (a) Text Search. This will enable end-users to search the database by typing in a specific word or series of words: for instance, ‘Patent,’ ‘Confidentiality,’ ‘Plant Breeders’ Rights,’ etc.

³ Any use of the database and the information contained in it will be subject to Terms of Use which will cover, *inter alia*: (a) Copyright: The database may include literary works (such as contracts, contract clauses or related information) which are protected by copyright and are the property of third parties; (b) Industrial Property Rights: Products, processes or technologies described by the information contained in the database may be the subject of industrial property rights, which will be reserved; (c) The information contained in the database will be provided “as is” without any warranties. Neither WIPO, its Member States, or the providers of information included in the database shall have any liability in connection with any use that may subsequently be made of the data contained in the database. By accessing and using the database, an end-user will indicate acceptance of the Terms of Use.

⁴ See Section III below for an example of how this page may look on the World Wide Web.

Alternatively, end-users may use a more precise keyword search option:

(b) **Keyword Search.** This will consist of four specific searches with drop down lists that can be highlighted by end-users. End-users may direct their search by selecting any combination of these four options. The four options will be as follows:

(i) *Country(ies).* This will enable end-users to highlight a particular country or countries and to search for all those contracts between parties in those countries, or contracts that relate to genetic material and associated traditional knowledge originating from those countries.

(ii) *Contract Parties.* This will enable end-users to search for contracts between particular combinations of parties. The proposed keyword searches are as follows:

- All: This will enable contracts between all types of parties to be searched.
- Government: e.g., Government Ministries, Government Agencies (National, Regional or Local), etc.
- Commerce or Industry: e.g., Pharmaceutical, Food and Agriculture, Horticulture, Cosmetics, etc.
- Research Institutions: e.g., Universities, Gene Banks, Botanic Gardens, Microbial Collections, etc.
- Traditional Knowledge Holders: e.g., Associations of Healers, Indigenous Peoples or Local Communities, Peoples' Organizations, Traditional Farming Communities, etc.
- Other: e.g., Private land owner(s), Conservation Group(s) etc.

(iii) *Contract Purpose.* This will enable end-users to specify whether they wish to search for contracts that relate to commercial or industrial application of the genetic resources and any associated traditional knowledge; contracts that permit research or educational uses only; or contracts that relate to other applications. This division has been made since the intellectual property aspects of these types of contracts tend to be distinct. The proposed keyword searches are as follows:

- All: This will enable both types of contract to be searched.
- Commercial or Industrial Application: This search option will lead to so-called 'bio-prospecting' or other commercially oriented agreements. The intellectual property aspect of these agreements may be quite complex.
- Research or Educational Application Only: This search option may be especially relevant to transfers between research institutions, such as *ex situ* collections.

- Other Applications: This search option may lead to certain applications which do not fall within either of the two previous categories, such as applications for health emergency reasons or national security reasons.

(iv) *Contract Scope*. This will enable end-users to specify a type of genetic resource. It will also enable end-users to search specifically for all those contracts that address associated traditional knowledge. The proposed keyword searches are as follows:

- All: End-users can search contracts that address all types of genetic resource, together with any associated traditional knowledge.
- Plant genetic resources: End-users can focus specifically on contracts that address plant genetic resources only, such as seeds or pollen.
- Animal genetic resources: End-users can focus specifically on contracts that address animal genetic resources only, such as semen or embryos.
- Microbial genetic resources: End-users can focus specifically on contracts that address microbial genetic resources only, such as fungi or bacteria.
- Human genetic resources: End-users can focus specifically on contracts that address human genetic resources only, such as human tissue or blood samples.
- Traditional knowledge: End-users can focus specifically on contracts that address associated traditional knowledge.
- Resources from non-biological natural substances: End-users can focus specifically on contracts that also address non-biological natural substances, in addition to biological resources.

4.3 Page Three: Search Results Page

End-users will be presented with a list of contract titles that contain all or some of the text or keywords that have been entered on the search page. For instance:

“Research and Development Agreement between [X] Government Agency and [Y] ex situ collection”.

“Licensing Agreement between [X] Pharmaceutical Company, [Y] University and [Z] Association of Healers”.

End-users may click on a particular contract title within this list. They will then be taken directly to the Contract Checklist page for that contract.

4.4 Page Four: Contract Checklist Page⁵

The Contract Checklist Page will contain a checklist of key information. The information will be compiled from the questionnaire sent out to Committee members and a wide range of applicable stakeholders: See Annex II.

This checklist has been structured with the intention of providing a concise, user-friendly web page that establishes the basic context of the contract and sets out all intellectual property (“IP”) related clauses. It is not intended to provide a comprehensive analysis of the contract in question.

The proposed checklist is as follows:

- (a) Contract parties.
- (b) Contract purpose: i.e., whether it is a contract for Commercial or Industrial use, for Research or Education only, or for certain Other Applications (such as health emergency reasons or national security reasons).
- (c) Contract objective.
- (d) Contract scope: i.e., description of genetic resources and any associated traditional knowledge.
- (e) Date contract entered into force.
- (f) Contract duration.
- (g) IP related clauses: i.e., patents; distinctive signs (geographical indicators and appellations of origin, trademarks etc.); plant breeders’ rights; trade secrets; copyright and related rights; *sui generis* protection of traditional knowledge; ongoing traditional and customary use: e.g., farmers’ rights; IP-related benefit-sharing, whether monetary (royalties, milestone payments, ethno-botanical premiums, trust funds etc) or non-monetary (IP-related training, technology transfer, exchange of results etc); assignment; licensing; other (e.g., termination, exclusivity of supply etc.).
- (h) Confidentiality: Member States expressed particular concern regarding the issue of confidentiality. Accordingly, any clause(s) addressing confidentiality will be set out here.
- (i) Applicable Legislation: i.e., any relevant national, regional, and/or international laws to which the contract is subject (e.g., contract law, legislation implementing the 1992 Convention on Biological Diversity etc.).
- (j) Dispute Resolution: i.e., how the parties have agreed to resolve any disputes that might arise under the contract (mediation, conciliation, arbitration,

⁵ See Section III below for an example of how this page may look on the World Wide Web.

national jurisdiction etc.) identifying, if possible, the agreed dispute resolution body (international, regional, national, or local).

(k) Governing Law of the Contract

(l) Practical advice: i.e., advice arising out of contract drafting and negotiation together with any lessons learned during the process.

(m) Provider of information: i.e., the contact details of the individual or institution that provided the information to WIPO and, where possible, will include an external link to their e-mail address.

(n) HYPER-LINK to Contract: Where the contract has been provided, there will be a link to the text of the contract itself. This will enable end-users to carry out a more comprehensive analysis of the contract in question, including the overall contractual context of the intellectual property related clauses.

III TEST DATABASE SEARCH PAGE AND TEST CONTRACT CHECKLIST PAGE

5. Hard copies of a Test Database Search Page and a Test Contract Checklist Page are set out below.

6. These Test Database Pages are also available for view on the WIPO web site at:

<http://www.wipo.int/globalissues/ipr/>

<http://www.wipo.int/globalissues/ipr/results.html>

TEST DATABASE SEARCH PAGE

This search page will enable you to search for individual contracts on access to genetic resources and benefit sharing, with particular reference to the intellectual property aspects of such contracts.

Text Search

Enter your search term(s) in the field on the right

For instance: 'Patent,' 'Confidentiality,' 'Plant Breeders' Rights.'

Keyword Search

Country

All
Albania ...
Zimbabwe

Contract Parties

All
Government
Commerce or Industry
Research Institutions
Traditional Knowledge Holders
Other

Contract Purpose

All
Commercial or Industrial application
Research or Education only
Other applications

Contract Scope

All
Plant genetic resources
Animal genetic resources
Microbial genetic resources
Human genetic resources
Associated traditional knowledge
Resources from non-biological natural substances

TEST DATABASE CONTRACTS CHECKLIST PAGE

Contract Title:

Contract Parties (i.e., Government, Commerce or Industry, Research Institutions, Traditional Knowledge Holders, Other)	
Contract Purpose	
Contract Objective	
Contract Scope	
Date of Entry into Force	
Duration of Contract	
Intellectual Property Related Clauses:	
<i>Patents</i>	
<i>Distinctive Signs</i>	
<i>Plant Breeders' Rights</i>	
<i>Trade Secrets</i>	
<i>Copyright and Related Rights</i>	
<i>Sui generis Protection of Traditional Knowledge</i>	
<i>Licensing</i>	
<i>Assignment</i>	
<i>Monetary Benefit-Sharing as relates to Intellectual Property</i>	

<i>Non-monetary Benefit-Sharing as relates to Intellectual Property</i>	
<i>Ongoing Traditional and Customary Use: e.g. Farmers' Rights</i>	
<i>Other: e.g. termination (insofar as relates to IP); exclusivity of supply; future supply of resources; publication of data etc.</i>	
Confidentiality	
Applicable Legislation (National, Regional and/or International)	
Dispute Resolution	
Governing Law of the Contract	
Practical Advice	
Provider of Information	

LINK to Contract, if provided

[Annex II follows]

QUESTIONNAIRE OF CONTRACTUAL PRACTICES AND CLAUSES
RELATING TO INTELLECTUAL PROPERTY,
ACCESS TO GENETIC RESOURCES AND BENEFIT SHARING

I INTRODUCTION

1. This questionnaire has been prepared by the Secretariat of the World Intellectual Property Organization (“WIPO”) to gather information relating to intellectual property related clauses and contractual practices in individual contracts concerning access to genetic resources and benefit-sharing.

2. It is intended to provide a practical intellectual property contribution to all those processes and fora working on access to genetic resources and benefit-sharing that fully reflects the diversity of genetic resource policy and legislation, stakeholder needs and expectations, and transfers and uses of genetic resources. WIPO therefore wishes to encourage as wide a range of stakeholders as is possible to answer this questionnaire: for instance, government agencies, indigenous peoples and local communities, commercial and industrial organizations, and source country and receiving country research institutions such as universities and *ex situ* collections.

3. Information provided may be:

- Incorporated into a user-friendly database to be published on the WIPO web site and hyper-linked to the web site of the Clearing House Mechanism (“CHM”) of the Convention on Biological Diversity (“CBD”); and/or
- Used as a basis for the development of guide contractual practices, guidelines and model intellectual property clauses for contracts concerning access to genetic resources and benefit-sharing.

II STRUCTURE OF THE QUESTIONNAIRE

4. The questionnaire is divided into three Parts:

- Part I requests contributors to provide a copy of the contract in question, preferably as a Word or Text file in electronic form, such as an e-mail attachment or on disk. The contract may then be incorporated directly into the database;
- Part II requests specific information relating to the contract in question, in particular, clauses relating to intellectual property;
- Part III requests contributors to share practical guidance and to pass on any lessons learned whilst drafting, negotiating and concluding the contract in question.

5. Contributors who provide a copy of the contract under consideration are encouraged to answer Part II but are not required to do so. They may wish to move directly to Part III.

6. Contributors who do not provide a copy of the contract under consideration are encouraged to complete both Part II and Part III of the questionnaire.

7. Contributors may submit several different completed questionnaires, depending upon the number of different contracts between different parties with differing intellectual property-related clauses that are under consideration.

8. It would be appreciated if all responses to the questionnaire could be received by the Secretariat of WIPO before Friday, September 21, 2002.

9. Completed questionnaires may be sent to the Global Intellectual Property Issues Division at grtkf@wipo.int or at WIPO, 34, chemin des Colombettes, 1211, Geneva 20 (Switzerland), Fax 41 22 338 8120.

III DEFINITIONS OF TERMS FOR THE PURPOSES OF THIS THE QUESTIONNAIRE

8. For the purposes of this questionnaire, please consider these terms to have the following meanings:

- ‘*Genetic resources*’ shall mean “genetic material of actual or potential value.”
- ‘*Genetic material*’ shall mean “any material of plant, animal, microbial or other origin containing functional units of heredity.”⁶
- ‘*Traditional Knowledge*’ shall be considered as encompassing traditional and tradition-based⁷ literary, artistic or scientific works; performances; inventions; scientific discoveries; designs; marks, names and symbols; undisclosed information; and all other traditional and tradition-based innovations and creations resulting from intellectual activity in the industrial, scientific, literary or artistic fields. For the purposes of this questionnaire, it does not include ‘expressions of folklore’.

⁶ Functional units of heredity shall be considered to include whole organisms, parts of organisms, and biochemical extracts from tissue samples that contain deoxyribonucleic acid (DNA) or, in some cases, ribonucleic acid (RNA), such as genes, plasmids, etc.

⁷ “Traditional” and “tradition-based” refer to knowledge systems, creations, innovations which: have generally been transmitted from generation to generation; are generally regarded as pertaining to a particular people or its territory; and, are continually evolving in response to a changing environment.

QUESTIONNAIRE⁸

Contact Details:

Name:

Title:

Office:

Member State/Organization:

Address:

Telephone:

Facsimile:

E-mail:

⁸ Responses to this questionnaire may be sent to the Global Intellectual Property Issues Division at grtkf@wipo.int or at WIPO, 34, chemin des Colombettes, 1211, Geneva 20 (Switzerland), Fax 41 22 338 8120. It would be appreciated if all responses could be received by the Secretariat of WIPO before Friday, September 21, 2002.

PART I

COPY OF THE CONTRACT

Where possible, please provide a copy of the contract in question, preferably as a Word or Text file in electronic form, such as an e-mail attachment or on disk.

Contracts may be provided in Arabic, Chinese, English, French, Russian or Spanish.

PLEASE DELETE FROM THE CONTRACT PROVIDED ANY INFORMATION THAT IS CONFIDENTIAL AND/OR COMMERCIALY SENSITIVE AND THAT YOU DO NOT WISH TO BE REFERRED TO AND/OR EXHIBITED IN ANY DATABASE PUBLISHED ON THE WIPO WEB SITE AND/OR IN ANY WIPO REPORT(S).

Please indicate whether a copy of an existing contract or model agreement is attached to this response:

Response:

Yes

No

If the answer is “Yes”: Contributors who have provided a copy of an existing contract or model contract are encouraged to answer Part II, but are not required to do so. They may wish to move directly to Part III of the questionnaire;

If the answer is “No”: Contributors who have not provided a copy of an existing contract or model contract are encouraged to answer both Part II and Part III of this questionnaire.

PART II

PLEASE DO NOT PROVIDE ANY INFORMATION THAT IS CONFIDENTIAL AND/OR COMMERCIALY SENSITIVE AND THAT YOU DO NOT WISH TO BE REFERRED TO AND/OR EXHIBITED IN ANY DATABASE PUBLISHED ON THE WIPO WEB SITE AND/OR IN ANY WIPO REPORT(S).

Question 1: *Please give the contract title.*

Response:

Contract Title.

Question 2: *Please identify the contract parties.*

Response:

Name(s) and contact details of Contract Parties.

Question 3: *Please specify the contract parties or, in the case of model contracts, the proposed contract parties. Please also state whether the party is the provider (P) or recipient (R) of the genetic resources and/or of any associated traditional knowledge.*

Response:

Description of party	Yes/No	Provider (P)/Recipient (R)
Government: e.g. Government Ministries, Inter-Governmental Agencies (national, regional or local) etc.	<input type="checkbox"/>	<input type="checkbox"/>
Commerce or Industry: e.g. Pharmaceutical, Food and Agriculture, Horticulture, Cosmetics etc.	<input type="checkbox"/>	<input type="checkbox"/>
Research Institution: e.g. Universities, National Research Institutions, Gene banks, Botanic	<input type="checkbox"/>	<input type="checkbox"/>

gardens, Zoological collections,
Microbial collections etc.

Traditional knowledge holders:
e.g. Associations of Healers,
Indigenous Peoples or Local
Communities, Peoples' Organizations,
Traditional Farming Communities etc.

Other parties. Please list below:
e.g. Private land owner, Conservation
Group etc.

Question 4: *Please state whether the contract permits:*

- (i) *Commercial or industrial use of genetic resources (whether actual or potential) or*
- (ii) *Research only.*

Response:

Yes/No

Commerical or Industrial Application

Research or Educational Application only

Other (e.g., health emergency reasons or national security reasons). Please list
below:

Question 5: *Please state the contract objective.*

Response:

Contract Objective.

Question 6: *Please identify the scope of the contract.*

Response:

	Yes/No
Plant Genetic Resources	<input type="checkbox"/>
Animal Genetic Resources	<input type="checkbox"/>
Microbial Genetic Resources	<input type="checkbox"/>
Human Genetic Resources	<input type="checkbox"/>
Derivatives, Modifications, Progeny	<input type="checkbox"/>
Uncharacterized Genetic Material transferred inadvertently e.g. microbes or parasites present in samples of plant material	<input type="checkbox"/>
Associated Traditional Knowledge	<input type="checkbox"/>
Resources for Non-biological Natural Substances	<input type="checkbox"/>

Other. Please list below:

Question 7: *Contract Activities: Please state the permitted uses of the genetic resources under the contract, including, where applicable, permitted uses of any derivatives, modifications, progeny etc.*

Response:

Permitted Uses under the Contract.

Question 8: *Contract Activities: Please state the permitted uses of any associated traditional knowledge under the contract.*

Response:

Permitted Uses of any Associated Traditional Knowledge under the Contract.

Question 9: *Please state the date that the contract came into force.*

Response:

Date contract came into force

Question 10: *Please state the contract duration.*

Response:

Contract duration:

Question 11: Please identify and record all intellectual property (IP) related clauses in the contract. For example:

Response:

Clause(s) relating to:	Please set out relevant clause(s) or summary of clause(s) including, if appropriate, explanation of the context of the clause(s) in relation to the contract and/or project as a whole
Industrial property incl. patents, trademarks, geographical indications and appellations of origin etc.	
Copyright and related rights	
Plant Breeders' Rights	
Trade Secrets	
<i>Sui generis</i> protection of Traditional Knowledge	
Licensing	
Assignment	
Monetary Benefit-sharing as relates to IP: e.g. up-front payments, royalties, milestone payments, ethno-botanical premiums, trust funds, etc.	
Non monetary Benefit-sharing as relates to IP: e.g. IP-related training, technology transfer, exchange of results, etc.	
Ongoing traditional and customary use: i.e. clarification of future use of genetic resources and any associated traditional knowledge by local peoples or traditional communities, such as farmers' rights.	
Termination (insofar as it relates to IP.)	

Other. Please list below:

e.g. publications, exclusivity of supply,
future supply of resources in the event of
successful research etc.

Question 12: *Confidentiality: Please set out any Confidentiality clause(s) or a summary of such clause(s) in the contract including, if appropriate, an explanation of the context of the clause(s) in relation to the contract and/or project as a whole.*

Response:

Confidentiality.

Question 13: *Please share any additional information that may give useful perspective to the intellectual property aspects of the contract. For instance, relevant contractual definitions; terms of transfer to third parties etc..*

Response:

Additional Information.

In order to give a legal context to the intellectual property clauses in question, please provide the following information:

Question 14: Please identify any existing intellectual property related laws and regulations applicable to the contract in question including any relevant IP related clauses in legislation regulating access to genetic resources and in any sui generis legislation to protect associated traditional knowledge:

Existing Intellectual Property Related Laws and Regulations	Please state name and date of law and, if possible, relevant clause number(s)
National laws and regulations in provider country	
National laws and regulations in receiving country	
Regional laws and regulations	
International laws and regulations	
Other	

Question 15: Please give information on any intellectual property related customary laws and protocols applicable to the contract in question:

Customary laws and protocols

Question 16: *Please state the Governing Law of the Contract:*

Response:

Governing Law of the Contract

Question 17: *Dispute Resolution: Please state how the parties have agreed to resolve any disputes that might arise under the contract (mediation, conciliation, arbitration, national jurisdiction etc) identifying, in particular, the agreed dispute resolution body (international, regional, national, or local).*

Response:

Dispute Resolution.

Question 18: *Please state whether the contract in question has been challenged at law; for instance, has it been subject to judicial review or subject to a claim for damages for breach? If so, is there any reported case law arising out of such a challenge? Please give full case name and full citation.*

Response:

Case law arising out of this contract.

PART III

PRACTICAL GUIDANCE AND LESSONS LEARNED

Question 19: *Please share any practical advice that you may have arising out of the drafting, negotiation and conclusion of the contract in question, in particular, any advice relating to the intellectual property aspects of the contract.*

For instance:

- *Prior informed consent. In particular, what role, if any, was played by government bodies such as National Intellectual Property Offices, CBD National Focal Points, CBD Competent National Authorities, etc?*
- *Benefit-Sharing. For example, how were Intellectual Property related benefits identified and agreed? With whom will benefits will be shared? What are the agreed timing of benefits (short, medium, long term).*
- *Local or indigenous communities. For example, (i) the mechanisms/consultative arrangements, if any, that existed to facilitate the involvement of local or indigenous communities: e.g. national consultative committees, indigenous organizations (ii) whether any intermediaries were used: e.g. mediators, facilitators (ii) whether a local or centralized register of traditional knowledge exists or is planned?*
- *Legal Advice. Was legal advice obtained by any/all of the parties?*
- *Model Contracts/Clauses. Was a model contract or were individual model clauses used? If so, at what stage in the negotiations was it/they introduced and by whom? How useful was it/they in clarifying the issues and in facilitating an agreement?*

Response:

Practical Guidance.

Question 20: *Please share any “lessons learned” arising from your work in the field of contractual agreements for access to genetic resources and benefit-sharing.*

Response:

Lessons Learned.

Thank you.

[End of Annex II and of document]