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**30<sup>TH</sup> STETSON INTERNATIONAL ENVIRONMENTAL MOOT COURT  
COMPETITION 2024 - 25**

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**THE INTERNATIONAL COURT OF JUSTICE AT THE PEACE PALACE  
THE HAGUE, NETHERLANDS**



**THE CASE CONCERNING QUESTIONS RELATING TO PRIOR INFORMED  
CONSENT AND BENEFIT SHARING IN THE CONTEXT OF DE-EXTINCTION**

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**ANECOYON  
(APPLICANT)**

**V.**

**RIDUS  
(RESPONDENT)**

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**MEMORIAL FOR THE APPLICANT**

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**LIST OF ABBREVIATIONS**

<b>ABS</b>	Access and Benefit-Sharing (legal framework under CBD and Nagoya Protocol)
<b>ABS regimes</b>	Legal frameworks under CBD & Nagoya Protocol for equitable sharing of benefits
<b>Biotechnology</b>	As defined in CBD Article 2; technological applications using biological systems or organisms
<b>BONN Guidelines</b>	Guidelines under CBD for Access and Benefit-Sharing
<b>CBD</b>	Convention on Biological Diversity
<b>CITES</b>	Convention on International Trade in Endangered Species of Wild Fauna and Flora
<b>COP</b>	Conference of the Parties (decision-making body of the CBD)
<b>COP Decision 14/20</b>	CBD COP decision on DSI and benefit-sharing
<b>COP Decision 15/9</b>	CBD COP decision on DSI utilization and benefit-sharing
<b>COP Decision 16/2</b>	CBD COP decision regarding sectors benefiting from DSI and benefit-sharing obligations
<b>CRISPR</b>	Clustered Regularly Interspaced Short Palindromic Repeats (gene-editing technology)

*PRELIMINARY PAGES*

<b>DNA</b>	Deoxyribonucleic Acid
<b>DSI</b>	Digital Sequence Information (used in biotechnology and genetic research)
<b>ICJ</b>	International Court of Justice
<b>Kunming-Montreal Global Biodiversity Framework</b>	International biodiversity framework linked to CBD and Nagoya Protocol
<b>LMO</b>	Living Modified Organism
<b>MAT</b>	Mutually Agreed Terms (agreement between provider and user of genetic resources)
<b>Nagoya Protocol</b>	Protocol on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Arising from their Utilization
<b>P</b>	Page
<b>PIC</b>	Prior Informed Consent (required for accessing genetic resources)
<b>R</b>	Thirtieth Annual Stetson International Environmental Moot Court Competition 2025–2026, RECORD
<b>R&amp;D</b>	Research and Development
<b>VCLT</b>	Vienna Convention on the Law of Treaties

**QUESTIONS PRESENTED**

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**QUESTIONS REGARDING PRIOR INFORMED CONSENT**

**(A)**

**WHETHER RIDUS'S CONDUCT COMPLIED WITH OR VIOLATED THE PRIOR INFORMED PROVISIONS OF THE CBD AND NAGOYA PROTOCOL, TO THE EXTENT THEY ARE APPLICABLE; AND**

**(B)**

**WHETHER ANECOYON'S REFUSAL TO CONSENT BASED ON ITS OBJECTIONS TO DE-EXTINCTION IS COUNTER TO THE CBD'S OBJECTIVES**

**QUESTIONS REGARDING BENEFIT SHARING**

**(A)**

**WHETHER, AS AN INITIAL MATTER, DSI USED FOR DE-EXTINCTION ACTIVITIES IS "BIOTECHNOLOGY" FOR THE PURPOSE OF THE CBD AND NAGOYA PROTOCOL; AND**

**(B)**

*PRELIMINARY PAGES*

**IF SO, WHETHER THE SIDNEY ANIMAL PARK IS A USER OF DSI ON GENETIC RESOURCES FOR PURPOSE OF CBD DECISION 16/2 AND WHETHER THE SIDNEY ANIMAL PARK IS ENGAGED IN COMMERCIAL ACTIVITY COVERED BY A SECTOR CURRENTLY LISTED IN CBD DECISION 16/2**

**STATEMENT OF JURISDICTION**

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The Anecoyon (“Applicant”) and the Ridus (“Respondent”) submit their dispute to this Honorable Court, pursuant to Art. 40(1) of the Statute of the ICJ. On July 14, 2025, Applicant and Respondent have submitted a copy of the Special Agreement to the Registrar of the Court. See Special Agreement Between Anecoyon and Ridus for Submission to the ICJ of Differences Between Them Concerning Questions Relating to Prior Informed Consent and Questions Relating to Benefit Sharing, signed at Cincinnati, Ohio, United States of America, on July 14, 2025. The Registrar addressed notification to the parties on July 28, 2025.

**STATEMENT OF FACTS**

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**I. Background**

The Panthera are Indigenous Peoples native to the Passager Peninsula, colonized in 1648 by the Kingdom of Mammuthus, which formed the provinces of Anecoyon and Ridus. Upon the 1914 Treaty of Separation, both became independent. Today, Anecoyon is a lower-middle-income state of 10 million, while Ridus is a high-income state of 55 million.

The extinct Royal Panther (*Puma rojali*) once inhabited both territories, but the best-preserved fossil was discovered in Anecoyon in 1901. In 2009, Anecoyon loaned that fossil to the National Museum of Ridus for “education and scientific research.” Both states are Parties to the CBD (1993) and the Nagoya Protocol (2015), affirming sovereign rights over genetic resources and the obligation to obtain prior informed consent (PIC) for their utilization.

**II. Dispute Regarding Prior Informed Consent**

In 2020, Ridus extracted DNA from the fossil and launched a “de-extinction” project to recreate the Royal Panther an activity far beyond the agreed educational purpose. Anecoyon immediately objected, asserting that as country of origin of the genetic resource, it must give PIC under Nagoya Protocol Art. 6 and CBD Art. 15.

Ridus advanced four defenses: that the Protocol could not apply retroactively; that extinct species fall outside the CBD definition of “genetic resources”; that the Royal Panther’s range was transboundary under Art. 11; and that the 2009 loan constituted valid consent for research.

Anecoyon's replies expose each flaw. First, the utilization of genetic material not its collection triggers the Protocol, and that occurred after 2015. Second, "in-situ sources" in CBD Art. 2 include fossils originating in Anecoyon. Third, the transboundary argument fails because the physical specimen and thus the DNA derives solely from Anecoyon's territory. Fourth, the loan did not grant informed consent: it contemplated conventional research, not genetic engineering for species recreation.

Under CBD Art. 15(5) an independent, non-retroactive norm access to genetic resources still required Anecoyon's authorization. Ridus's unilateral sequencing and use of derivatives therefore violated both treaties' consent regimes and the principle of state sovereignty over natural resources.

### **III. Dispute Regarding Benefit Sharing**

Despite returning the fossil, Ridus sequenced the genome, made DSI publicly available, and exhibited two recreated panthers at the Sidney Animal Park, a high-revenue attraction generating over USD 130 million annually.

Anecoyon invoked CBD Decision 16/2 and the Cali Fund, arguing that DSI use for de-extinction constitutes biotechnology under CBD Art. 2 and Nagoya Art. 3(g). The Park, exceeding the financial thresholds (assets > 20 million USD; sales > 50 million USD), is a commercial user obliged to contribute at least 0.1 % of revenue to the global fund.

Ridus claimed the project was non-commercial "ecological restoration," analogizing zoos under CITES as exempt. Anecoyon correctly rejected this: CITES governs trade in living species and cannot displace CBD benefit-sharing rules. Decision 16/2 explicitly lists biotechnology and animal

breeding as covered sectors, capturing the Park's activities and its partnership with private company Salols Co. Generating paid public access and eco-tourism profits establishes direct economic benefit precisely what the CBD's equity mechanisms address.

#### **IV. Current Status**

Negotiations failed. In 2023 Anecoyon legislated against de-extinction using its genetic resources and demanded cessation of the project. Ridus continued DSI utilization and rewilding plans. Both States have now referred the dispute to the ICJ.

**SUMMARY OF ARGUMENT**

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**I. QUESTIONS REGARDING PRIOR INFORMED CONSENT**

Ridus's 2020 extraction of DNA from Anecoyon's fossil constitutes a new act of access to genetic resources under CBD Article 15 and Nagoya Protocol. Genetic material, including ancient DNA, qualifies as a protected resource, and utilization via sequencing, DSI creation, and de-extinction research triggers PIC and MAT obligations. The 2009 loan granted only physical custody for display and education, which does not authorize extraction or research. Anecoyon explicitly withheld consent for genetic use. Post-ratification acts are governed by treaty obligations; reliance on pre-CBD timing is invalid. Ridus's unilateral extraction violated Anecoyon's sovereign rights and obligations under international environmental law.

De-extinction represents high-risk, speculative biotechnology; CBD mandates precaution, sustainable use, and protection of indigenous knowledge. Anecoyon's refusal is necessary, suitable, and proportionate, preserving biodiversity, cultural integrity, and compliance with national law. COP Decision 16/2 cannot override sovereign consent, and benefit-sharing cannot justify bypassing PIC. Ridus acted unlawfully by extracting DNA without consent, while Anecoyon's actions align with precautionary principles, treaty objectives, and international jurisprudence.

**II. QUESTIONS REGARDING BENEFIT SHARING**

Ridus's de-extinction of the Royal Panther using DSI constitutes biotechnology within the meaning of CBD Article 2, as it applies technological processes to living organisms to create or modify life. The creation of Ixchel and Itzamna involved systematic R&D on genetic material, using CRISPR and synthetic biology, clearly qualifying as utilization under Nagoya Protocol Article 2(c). Ridus failed to adopt legislative or administrative measures to ensure benefit-sharing, contravening Articles 5 and 23 of the Protocol and COP Decisions 16/2, 15/9, and 14/20. By denying DSI as biotechnology, Ridus frustrates the object and purpose of the CBD, violating the VCLT's interpretive obligations and committing biopiracy through unilateral exploitation of genetic resources without establishing MAT or equitable benefit-sharing.

The Park derives substantial revenue directly from DSI-modified organisms, making it a commercial user irrespective of its conservation branding. Its activities fall under sectors listed in CBD Decision 16/2 and ISIC classifications, triggering mandatory benefit-sharing obligations. Excluding DSI use would encourage digital biopiracy, undermining ABS goals. Ridus, having committed to the Cali Fund modality at COP16, must ensure compliance by private actors; estoppel bars it from evading this duty. Failure to regulate constitutes a breach of its obligations under the CBD and Nagoya Protocol.

ARGUMENTS WITH POINT HEADING

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QUESTIONS REGARDING PRIOR INFORMED CONSENT

**(A) RIDUS'S CONDUCT VIOLATED THE PRIOR INFORMED CONSENT PROVISIONS OF THE CBD AND NAGOYA PROTOCOL.**

**I. Ridus's Extraction of DNA is a New Act of "Access to Genetic Resources" under Article 15 of the CBD.**

**i. Ridus's Act of Extracting Genetic Material (DNA) is Considered Access to a Genetic Resource.**

**a. The Genetic Material Falls Under the Definition of Genetic Resource Under CBD**

Genetic resources are defined by the CBD in terms of "actual or potential value".<sup>1</sup> Regardless of its age or form, genetic material containing extractable genetic information such as ancient DNA retrieved from a fossil qualifies as a "genetic resource" as it can be sequenced<sup>2</sup> and is recognized by modern jurisprudence as such and the genetic material contained in the fossil remained a protected genetic resource.

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<sup>1</sup> IUCN, *An Explanatory Guide to the Nagoya Protocol on Access and Benefit-Sharing*, Environmental Policy and Law Paper No. 83 (2012), available at <https://portals.iucn.org/library/efiles/documents/eplp-083.pdf>.

<sup>2</sup> F.I. Akpoviri, S.N. Baharum & Z.A. Zainol, *Digital Sequence Information and the Access and Benefit-Sharing Obligation of the Convention on Biological Diversity*, 17 *Nanoethics* 1 (2023), <https://doi.org/10.1007/s11569-023-00436-3>.

**b. Ridus's Extraction Means Accessing Genetic Resources.**

Access in international law is the acquisition of genetic resource or of traditional knowledge associated with genetic resources.<sup>3</sup> In order to harvest DNA from the fossil in 2020, Ridus scientists performed invasive sampling to construct a DSI database, later used for de-extinction studies [R.16]. These activities meet the definition of utilization<sup>4</sup> under the Nagoya Protocol as it exceeds the scope by conducting R&D on its genetic composition, not just merely possessing a specimen. Thus, Ridus's actions qualify as a new act of access to genetic resources that constitutes PIC<sup>5</sup> and MAT's<sup>6</sup> obligations.

**ii. The Loan Agreement did not Cover Biological Extraction or Use, Only Physical Custody for Display.**

**a. Ridus was Only Given Physical Custody for Display.**

The 2009 agreement only allowed for physical custody, meant solely for 'display and educational purpose'. The legal right to use a specimen's genetic material is not derived from its possession and that possession does not amount to sovereign rights or ownership.<sup>7</sup> Hence, no access to the underlying genetic data was granted by giving Ridus custody exceeding the agreement's permissible scope of extraction, sequencing, or derivative use of the fossil's DNA.

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<sup>3</sup> Univ. of Cambridge, *Nagoya Protocol Access and Benefit-Sharing Checklist—Annex 1: Definitions*, available at <https://www.research-operations.admin.cam.ac.uk/nagoya-protocol/nagoya-abs-checklist/nagoya-checklist-annex-1>.

<sup>4</sup> Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization art. 2(c), Oct. 29, 2010, 1760 U.N.T.S. 79 [hereinafter *Nagoya Protocol*].

<sup>5</sup> *Nagoya Protocol*, supra note 4, art. 6; Convention on Biological Diversity art. 15, June 5, 1992, 1760 U.N.T.S. 79 [hereinafter *CBD*].

<sup>6</sup> *Nagoya Protocol*, supra note 4, art. 5.

<sup>7</sup> *United States v. Alaska*, 521 U.S. 1 (1997) <https://supreme.justia.com/cases/federal/us/521/1/>

**iii. CBD Will Apply to the New Act as it Occurred Post-Entry of CBD & Nagoya Protocol.**

**a. A Structure of PIC on Mutually Agreed Terms is Established in International Environmental Law**

A regime of ABS<sup>8</sup> is based on two principles, (a) Provider State's sovereignty; and (b) its equitable sharing of benefits. Specifications on how PIC and MAT must be put into place prior to access<sup>9</sup> supports this framework. In violation of both CBD Article 15(7) and Nagoya Protocol Article 5, Ridus's extraction and subsequent use of DNA for "de-extinction", publication of DSI, and commercial exhibition of proxy specimens denied Anecoyon's legal right of discussing benefit-sharing<sup>10</sup>.

Interpreting the CBD to exclude post-entry conduct would only undermine its goals as the 2020 extraction was not a continuation of access before CBD but rather a distinct, new act of utilization. Consequently, the Nagoya Protocol and the CBD have completed temporal jurisdiction over it as Ridus was required to obtain Anecoyon's PIC and establish MAT for benefit-sharing before extracting and exploiting the fossil's DNA.

**II. PIC Covers the Post Ratification Utilization.**

**i. PIC is Expressly Required for Access to Genetic Resources under CBD.**

It was stated that PIC has to be taken before any access to genetic resources<sup>11</sup> as well as utilization<sup>12</sup> on any such resources<sup>13</sup>. PIC was incorporated in CBD as the main means by which Provider States

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<sup>8</sup> *CBD*, supra note 5, art. 15.

<sup>9</sup> *Nagoya Protocol*, supra note 4, art. 6.

<sup>10</sup> *CBD*, supra note 5, art. 15(7); *Nagoya Protocol*, supra note 4, art. 5.

<sup>11</sup> *CBD*, supra note 5, art. 15(5).

<sup>12</sup> *Nagoya Protocol*, supra note 4, art. 2(c).

<sup>13</sup> *Id.* art. 6.

## APPLICANT MEMORIAL

can exercise their sovereign rights over natural resources<sup>14</sup>. Hence, Ridus's extraction and sequencing of the DNA constituted R&D and was accurately in the scope of utilization, needing the PIC<sup>15</sup>. It has been consistently established how treaty obligations are to be interpreted in light of its object and purpose<sup>16</sup> and if Article 15(5) of CBD is interpreted narrowly to exclude post-entry act, the CBD's main goals of conservation and equitable benefit-sharing would be undermined.

### **ii. The Essential Element is When Ridus's Utilization Took Place.**

Non-retroactivity can be applied to new acts<sup>17</sup>. The date of utilization when a State accesses genetic data for study or development is more crucial than the date the tangible item was initially loaned or traded as here, the continuous acts occurred years later. Long after both Parties had ratified the Nagoya Protocol (2015) and the CBD (1993), Ridus had extracted and sequenced the DNA in 2020. Therefore, the new act is governed by the CBD as it's ongoing after the treaties came into force<sup>18</sup> even though, treaties do not have retrospective effect.

The 2009 loan could not have contained terms for de-extinction research; it only granted temporal custody. Subsequent practice or agreement must be considered for treaty interpretation<sup>19</sup>. In the note verbals, Anecoyon's objection was that the loan did not constitute authorization [R.20] and

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<sup>14</sup> *CBD*, supra note 5, art. 15(1).

<sup>15</sup> *Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Arising out of Their Utilization*, Part II, C, ¶ 16(b)(iv) (2002) [hereinafter *Bonn Guidelines*].

<sup>16</sup> *Gabčíkovo-Nagymaros Project*, supra note 11, at 7.

<sup>17</sup> Vienna Convention on the Law of Treaties art. 28, May 23, 1969, 1155 U.N.T.S. 331 [hereinafter *VCLT*].

<sup>18</sup> *VCLT*, supra note 18, art. 31(3).

<sup>19</sup> *Id.*

Ridus announced that their extraction occurred in 2020 [R.16], triggering the obligation to acquire a PIC.

### iii. Ridus's DNA Extraction Activate the Obligation to Obtain PIC.

After the ratification of CBD and Nagoya Protocol, utilization of Anecoyon's genetic resources was subject to its sovereign consent<sup>20</sup> and the extraction falls within the temporal scope of the CBD. Acts occurring after a treaty's entry into force are considered relevant acts<sup>21</sup>. The CBD is a growing instrument created with goals<sup>22</sup> for controlling current and future actions that impact biodiversity like the fossil even if it was obtained before the treaty went into effect. Furthermore, Ridus had to negotiate MAT and get Anecoyon's approval as soon as it started using the genetic resource due to the binding scope of the Nagoya Protocol<sup>23</sup>. By acting unilaterally, Ridus violated Anecoyon's right of establishing MAT related to benefit-sharing<sup>24</sup>.

### III. The 2009 Loan did not Constitute Valid PIC.

Even though, scientific research does not have a clear definition yet, it is said to be heavily dependent on the utilization of genetic resources<sup>25</sup>. Due to exchanges in commercial and fair

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<sup>20</sup> □ □ CBD, supra note 5, arts. 15(1), 15(5).

<sup>21</sup> *Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia v. Greece)*, Judgment, 2011 I.C.J. Rep. 644, available at <https://opil.ouplaw.com/display/10.1093/law/icgj/433icj11.case.1/law-icgj-433icj11>. Judgment of 5 December 2011, I.C.J. Reports 2011, p. 644 <https://opil.ouplaw.com/display/10.1093/law/icgj/433icj11.case.1/law-icgj-433icj11>

<sup>22</sup> CBD, supra note 5, pmb. & art. 1.

<sup>23</sup> *Nagoya Protocol*, supra note 4, art. 3.

<sup>24</sup> *Id.* art. 5.

<sup>25</sup> Jocelyn P. Colella et al., *Engaging with the Nagoya Protocol on Access and Benefit-Sharing: Recommendations for Noncommercial Biodiversity Researchers*, 104 *J. Mammalogy* 430 (2023), <https://doi.org/10.1093/jmammal/gyac122>.

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benefit-sharing, exchanges regarding “genetic resources” largely excludes the biodiversity research sector from participating in science and could negatively<sup>26</sup> impact conservation goal”<sup>27</sup>.

PIC mandates complete disclosure of intended use, voluntariness and (c) detailed scope<sup>28</sup>. The authority and need of good-faith, transparency & due diligence in environmental cooperation is well established<sup>29</sup>. The 2009 loan's language is restricted to "educational display and non-invasive research," makes no mention of DSI, genetic extraction or even commercialization and thus, does not constitute a valid PIC.

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<sup>26</sup> *Resource Exploitation*, ScienceDirect, available at <https://www.sciencedirect.com/topics/social-sciences/resource-exploitation>.

<sup>27</sup> Id.

<sup>28</sup> *Bonn Guidelines*, supra note 16, ¶¶ 36–38.

<sup>29</sup> *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, 2010 I.C.J. Rep. 14.

**(B) ANECYON'S REFUSAL TO CONSENT BASED ON ITS OBJECTIONS TO DE-EXTINCTION IS NOT COUNTER TO THE CBD'S OBJECTIVES.**

**I. Anecoyon's Protective Measures are Supported by the Object and Purpose of the CBD.**

**i. Sustainable Use and Conservation are Essential Goals, not Optional Ones.**

Ridus has ignored the main distinction between 'scientific use' and 'sustainable use'<sup>30</sup>. Conservation and sustainable use must be included in national policies<sup>31</sup>, where 'sustainable' refers to 'use' that does not harm biodiversity. Conservation is a 'common concern for humankind' and must be protected from 'adverse impacts'<sup>32</sup>. Conservation must go hand-in-hand with development for it to be sustainable<sup>33</sup>. Anecoyon's refusal to consent fulfills CBD's objectives by treading cautiously and exercising restraint to protect biodiversity.

**a. Uses with High-Risk, Speculative Results Must be Excluded by Reading "Environmentally Sound Use."**

States must anticipate and prevent biodiversity loss<sup>34</sup>, and adopt measures as prescribed in CBD<sup>35</sup>. 'Environmentally Sound Use' is a crucial mandate that prohibits risk, it does not give free rein. Precaution is a legal obligation under environmental due diligence; precaution is treated as a legal obligation to abide through<sup>36</sup>. De-extinction means high-risk, unreliable biotechnology which can

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<sup>30</sup> CBD, supra note 5, art. 1.

<sup>31</sup> CBD, supra note 5, art. 10(a).

<sup>32</sup> CBD, supra note 5, pmb. & art. 8(g).

<sup>33</sup> *Gabčíkovo-Nagyymaros Project*, supra note 11, at 7.

<sup>34</sup> CBD, supra note 5, pmb.

<sup>35</sup> CBD, supra note 5, art. 10(b).

<sup>36</sup> Rio Declaration on Environment and Development, princ. 15, U.N. Doc. A/CONF.151/26/Vol.I (1992), available at [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_CONF.151\\_26\\_Vol.I\\_Declaration.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf); *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, supra note 38.

be unsafe for the environment<sup>37</sup>. CBD's goal is to direct its development, instead of technological optimism as it does not fall under its object and purpose<sup>38</sup>. States have the discretion to legally refuse risky, unreliable genetic procedures due to lack of 'scientific certainty' as a precautionary approach<sup>39</sup>.

**b. The Goals of CBD Include the Preservation of Indigenous Values and Cultural Integrity.**

States must safeguard and preserve indigenous knowledge and practices<sup>40</sup>. Scientific research must be in line with a treaty's object and purpose<sup>41</sup>. Consequently, de-extinction goes against the CBD's cultural and ethical principles<sup>42</sup>. Therefore, by protecting both traditional and cultural practices, Anecoyon's denial satisfies Article 8(j) and safeguards against manipulation of practices regarding such ancestral species.

**II. PIC was not Granted for De-Extinction as such Purposes were not Covered by the 2009 Loan.**

**i. De-Extinction was not Included in the 2009 Loan's Scope.**

The 2009 loan was only for education and scientific research which made its scope limited. Actions that exceed such consent violates national sovereignty<sup>43</sup> just like Ridus did here. It is not possible to authorize consent towards a technology that did not exist yet and Ridus's willingness to still

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<sup>37</sup> Philip Seddon, *De-extinction and Barriers to the Application of New Conservation Tools*, 47 *Hastings Ctr. Rep.* S5 (2017), <https://doi.org/10.1002/hast.745>.

<sup>38</sup> *VCLT*, supra note 18, art. 31(3).

<sup>39</sup> *Cartagena Protocol*, supra note 40, art. 10(6).

<sup>40</sup> *CBD*, supra note 5, art. 8(j); Conference of the Parties, Decision XIII/18, 17 Dec. 2016, available at <https://www.cbd.int/doc/decisions/cop-13/cop-13-dec-18-en.pdf>.

<sup>41</sup> *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgment, 2014 I.C.J. Rep. 226.

<sup>42</sup> *CBD*, supra note 5, art. 10(c).

<sup>43</sup> *Armed Activities on the Territory of the Congo*, supra note 56. Judgment, I.C.J. Reports 2005, p. 168 <https://www.icj-cij.org/sites/default/files/case-related/116/116-20051219-JUD-01-00-EN.pdf>

imply such authorization is a violation of CBD's purpose. It constitutes the loan into a blanket consent<sup>44</sup> to genetic resources instead of a museum loan.

**ii. Anecoyon is the 'Country of Origin' Providing Genetic Resources.**

States determine access to genetic resources<sup>45</sup> and unapproved extraction violates such sovereign right<sup>46</sup>. Hence, Anecoyon's rigid stance on PIC is lawful for its sovereignty.

Moreover, Article 1 of the CBD<sup>47</sup> does not acknowledge de-extinction as one of its objectives, neither did de-extinction as a concept exist at the time when CBD came into force. Furthermore, the unreliability that accompanies it makes it harder to ensure any of the CBD's objectives. Due to the ambiguity and biosafety concerns, COP DEC XIII/17 urges States to proceed with caution in regards of synthetic biology<sup>48</sup>.

The Rio Declaration<sup>49</sup> as well as the CBD Preamble,<sup>50</sup> creates the obligation on states to take precautionary measures even in the absence/lack of scientific research. Thus, Anecoyon's rejection is justified, as the country of origin, taking precautionary measures to prevent environmental harm.

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<sup>44</sup> B.N.G. Bhuvaneshwari, R.B. Savithramma & L. Nagesh, *Blanket Consent—“The Safety Blanket for Research”*, 5 **J. Global Oral Health** 107 (2022), available at <https://jglobaloralhealth.org/blanket-consent-the-safety-blanket-for-research/#:~:text=Storing%20interesting%20models/samples/records,the%20use%20of%20blanket%20consent>.

<sup>45</sup> *CBD*, supra note 5, art. 15(1).

<sup>46</sup> U.N. Gen. Assembly, supra note 55; *Armed Activities on the Territory of the Congo*, supra note 56.

<sup>47</sup> *CBD*, supra note 5, art. 1.

<sup>48</sup> Conference of the Parties, Decision XIII/17, 16 Dec. 2016, available at <https://www.cbd.int/doc/decisions/cop-13/cop-13-dec-17-en.pdf>.

<sup>49</sup> Rio Declaration, supra note 47, princ. 15.

<sup>50</sup> *CBD*, supra note 5, pmb1.

**III. The CBD COP Decision 16/2 does not obligate Anecoyon to Consent to De-Extinction.**

**i. COP Rulings have Interpretive functions, not legal bindingness.**

The COP examines implementation under Article 23 of the CBD and may provide recommendations or guidance but is unable to establish binding obligations without consent of the State<sup>51</sup>. According to the ICJ and ILC, later practice or COP rulings assist to interpret treaties<sup>52</sup> but treaty obligations cannot be altered. Decision 16/2 has no authority to alter Article 15; it only shows political agreement on benefit-sharing in synthetic biology<sup>53</sup>. Anecoyon's refusal is a lawful and sovereign act that aligns with CBD.

**ii. Benefit-Sharing is the Goal of Decision 16/2.**

Decision 16/2 just encourages equitable benefit-sharing in DSI and synthetic biology. Benefit-sharing is one of the main objectives of CBD<sup>54</sup> and is dependent on biosafety and conservation compliance. As 'scientific research' aligns with the treaty's object, benefit-sharing must align with the precautionary approach of CBD<sup>55</sup>. Limiting usage of biotechnology that can cause risks is supported by the Cartagena Protocol<sup>56</sup>. Therefore, Anecoyon's rejection is in line with Decision 16/2.

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<sup>51</sup> *CBD*, supra note 5, art. 23(4).

<sup>52</sup> *VCLT*, supra note 18, arts. 31(3)(a) & (b).

<sup>53</sup> Conference of the Parties, Decision 16/2, *Access and Benefit-Sharing*, available at <https://www.cbd.int/doc/decisions/cop-16/cop-16-dec-02-en.pdf>.

<sup>54</sup> *CBD*, supra note 5, art. 1.

<sup>55</sup> *Whaling in the Antarctic*, supra note 53.

<sup>56</sup> *Cartagena Protocol*, supra note 40, arts. 10(6) & 15.

**QUESTIONS REGARDING BENEFIT SHARING**

**(A). DSI USED FOR DE-EXTINCTION ACTIVITIES IS “BIO-TECHNOLOGY” FOR PURPOSES OF THE CBD & NAGOYA PROTOCOL REGARDING BENEFIT SHARING**

**I. Ridus’s De-Extinction Procedure Consists of “Biotechnology” Under the CBD**

CBD defines biotechnology as "Any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use," a classification which directly encompasses de-extinction techniques.<sup>57</sup> Consequently, these methods fall under the CBD's legal framework, triggering obligations for biosafety<sup>58</sup> and the fair sharing of benefits arising from their use.<sup>59</sup>

It is crucial to note that the CBD's concept of biotechnology is broader than just genetic engineering, allowing the Protocol to cover various biological technologies that use materials lacking functional DNA.<sup>60</sup> Thus, the claims of the De-extinction procedure not consisting of “Biotechnology” by Ridus, violates the Convention.

**i. Broad Definition of Biotechnology Encompasses DSI**

CBD Article 2 defines “biotechnology” which is designed to include both present and future technologies and processes that use biological systems or parts of them, whether the technologies are conventional or new.<sup>61</sup>

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<sup>57</sup> *CBD*, supra note 5, art. 2.

<sup>58</sup> *Cartagena Protocol*, supra note 40, pmb1.

<sup>59</sup> *Nagoya Protocol*, supra note 4, pmb1.

<sup>60</sup> Elisa Morgera, Elsa Tsioumani & Matthias Buck, “Use of Terms,” in *Unraveling the Nagoya Protocol: A Commentary on the Nagoya Protocol on Access and Benefit-Sharing to the Convention on Biological Diversity* 59, 67 (Brill 2015) (cited infra), see also supra note 4.

<sup>61</sup> IUCN, *Environmental Policy and Law Paper No. 30*, at 17, available at <https://portals.iucn.org/library/efiles/documents/EPLP-no.030.pdf> (last visited Nov. 7, 2025).

DSI, the digital genetic code is used to design and create biological systems e.g., through CRISPR or synthetic biology.<sup>62</sup> Therefore, the process of using DSI by Ridus to engineer biology in de-extinction is a direct application of biotechnology, placing it within the CBD's scope.

**a. De-extinction through DSI clearly constitutes biotechnology**

De-extinction using DSI is not merely observation; it is the application of biological information to create or modify a living organism.<sup>63</sup>

DNA was extracted from a Royal Panther fossil originally found in Anecoyon, a reference genome was sequenced and digitized into DSI, CRISPR technology was used to engineer cougar cells with Royal panther traits, and the embryos were implanted into host cougars, resulting in the birth of two live panthers, Ixchel and Itzamna [R. 31]. A de-extinct organism created by inserting synthetic DNA (based on DSI) into a host egg cell is unequivocally an LMO.<sup>64</sup>

**b. Ridus's definition of biotechnology overlooks process over intent.**

The legal instruments that govern biotechnology the CBD<sup>65</sup> and the Cartagena Protocol defines it by the technical process employed. The motive behind the activity, whether it is for de-extinction, medicine, or agriculture, is irrelevant to whether an activity is legally classified as biotechnology.

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<sup>62</sup> CBD Ad Hoc Technical Expert Group on Digital Sequence Information on Genetic Resources for Food and Agriculture, Information Document, at 8, available at <https://www.cbd.int/doc/c/abcf/b9df/be9859f376997cf8cc00d175/dsi-ahteg-2020-01-inf-01-en.pdf> (last visited Nov. 7, 2025).

<sup>63</sup> Shapiro, B. (2015). *How to Clone a Mammoth: The Science of De-Extinction*. Princeton University Press. (See also: Novak, B.J. (2018). "De-extinction." *Genes*, 9(11), 548.)

<sup>64</sup> Cartagena Protocol, art. 3(g) (definition of LMO). Cf. *Cartagena Protocol*, supra note 40.

<sup>65</sup> *CBD*, supra note 5, art. 2.

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Biotechnology is defined by process, not motive.<sup>66</sup> Gene editing is biotechnology regardless of its purpose.

Under the ICJ's jurisprudence in the Whaling in the Antarctic judgement<sup>67</sup> demonstrates that recharacterization cannot excuse exploitation of international frameworks.<sup>68</sup> Ixchel and Itzamna were the result of the genetically engineered DSI of the Royal Panther, with CRISPR technology and implanting the placenta in the host cougar, [R. 31] a process which consists of utilizing "technology" on living organisms with biological systems.

### **II. Ridus's De-extinction procedure constitutes "the use of genetic resources" under the Nagoya Protocol**

Under the Article 2(c) of the Nagoya Protocol "Utilization of genetic resources"<sup>69</sup> means to conduct R&D on the genetic and/or biochemical composition of genetic resources, including through the application of biotechnology as defined in Article 2 of the Convention<sup>70</sup>. The Kunming-Montreal Global Biodiversity Framework's Goal C when read in conjunction with the explicit mandate in COP Decision 15/9, confirms that any utilization of DSI is recognized as an act triggering benefit-sharing obligations.<sup>71</sup>

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<sup>66</sup> IUCN, *Environmental Policy and Law Paper No. 46*, available at <https://portals.iucn.org/library/efiles/documents/eplp-046.pdf> (last visited Nov. 7, 2025).

<sup>67</sup> *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, supra note 53, ¶ 227.

<sup>68</sup> *Id.* ¶ 227; see also para. 293, available at <https://www.icj-cij.org/sites/default/files/case-related/148/148-20140331-JUD-01-00-EN.pdf>.

<sup>69</sup> *Nagoya Protocol*, supra note 4, art. 2(c).

<sup>70</sup> *CBD*, supra note 5, art. 2.

<sup>71</sup> Kunming-Montreal Global Biodiversity Framework (Kunming Goal reference), see COP documents, supra note 36.

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The process of de-extinction specifically, the act of taking the genetic sequence from an extinct species such as the Royal Panther, and using biotechnological tools to reconstitute a living organism constitutes a "utilization of genetic resources" as defined in the Protocol.<sup>72</sup>

### **i. Ridus used the DSI for Research & Development to engineer panthers**

De-extinction is a quintessential R&D process. It involves the systematic study, experimentation, and application of knowledge to achieve the specific goal of recreating a phenotypic representative of an extinct species.<sup>73</sup>

Within the context of the Protocol, "research" refers to the systematic investigation and experimentation aimed at discovering new facts,<sup>74</sup> particularly when paired with "development" as a linked process for technological innovation.<sup>75</sup> This encompasses work on the genetic or biochemical composition of resources to uncover valuable properties and devise practical applications for creating new or improved products.

The DSI collected from the fossils of the Royal Panther were collected for scientific and educational purposes as stated by the Respondent state themselves, [R. 21] but later on such were utilized to modify the Panther and create Ixchel and Itzamna. [R. 31,32]

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<sup>72</sup> Morgera, Tsoumani & Buck, *supra* note 79, at 62.

<sup>73</sup> IUCN, *Rep. 2016-009*, available at <https://portals.iucn.org/library/efiles/documents/Rep-2016-009.pdf> (last visited Nov. 7, 2025).

<sup>74</sup> Oxford Dictionaries Online, definition of "Research" (accessed Oct. 10, 2013) ("A search or investigation undertaken to discover facts and reach new conclusions by the critical study of a subject or by a course of scientific inquiry").

<sup>75</sup> Encyclopædia Britannica Online, entry "Research and Development" (accessed Oct. 10, 2013) ("two intimately related processes by which new products and new forms of old products are brought into being through technological innovation").

**ii. Ridus failed to adopt legislative & administrative measures to ensure ABS**

Under Article 5 of the Nagoya Protocol, State parties are obligated to adopt legislative, administrative or policy measures, as appropriate.<sup>76</sup> In the light of this, the related obligation for States as spelt out in Article 5(3) is to take legislative, administrative or policy measures, as appropriate, to create obligations for private users under their jurisdiction to share benefits, so as to implement the corresponding international benefit-sharing obligations.<sup>77</sup>

Thus, Ridus had violated such an obligation by failing to adopt any legislation ensuring the equitable sharing of benefits as per the Protocol<sup>78</sup> and CBD COP 16<sup>79</sup>.

**iii. Technological use of DSI by Ridus triggers Nagoya Obligations**

Article 23 of the Protocol establishes an obligation for Parties to collaborate and cooperate in technical and scientific research, and development programs, including biotechnological research activities.<sup>80</sup> Furthermore, the obligation implies the promotion of the establishment of joint research programmes and joint ventures for technology development.<sup>81</sup> Yet Ridus, after extracting DSI from the fossil remnants had not cooperated with regarding any joint research program for the Technological use of the Genetic Resource.

The use of genome sequencing and CRISPR engineering represents a clear "technological application" of derivatives, placing it firmly within the Nagoya Protocol's scope. This is supported by the Protocol's technology-neutral principle, which is designed to cover evolving innovations,

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<sup>76</sup> *Nagoya Protocol*, supra note 4, art. 5(3).

<sup>77</sup> Greiber et al., *An Explanatory Guide to the Nagoya Protocol on Access and Benefit-sharing*, supra note 1, at 84.

<sup>78</sup> *Nagoya Protocol*, supra note 4, art. 5.

<sup>79</sup> COP-16, Decision 16/2, supra note 74.

<sup>80</sup> *Nagoya Protocol*, supra note 4, art. 23.

<sup>81</sup> *CBD*, supra note 5, art. 18(5).

not just past technologies.<sup>82</sup> An international consensus, including the WTO EC – Biotech<sup>83</sup> ruling and subsequent CBD decisions on synthetic biology, confirms that modern genetic techniques like gene-editing fall under existing ABS regimes.

Therefore, these activities constitute a direct form of "utilization," as the definition encompasses R&D on biochemical and genetic derivatives. Ridus arguing for their exclusion is violating the Protocol's intent and established legal interpretation.

### **III. Ridus violated the VCLT by denying the conventions *effet utile*.**

A textual interpretation that fails to encompass de-extinction creates a perverse incentive for states to sidestep benefit-sharing duties by redefining biotechnological innovation as mere conservation. This not only contravenes the object and purpose of the CBD but also threatens to vitiate its core tenets of effectiveness and equity.

Pursuant to the general rule of treaty interpretation under Article 31(1) of the VCLT<sup>84</sup>, the terms of a treaty must be interpreted in light of its object and purpose. The fundamental objective of the CBD and its Nagoya Protocol is to preclude the unilateral exploitation of genetic resources. Consequently, the application of de-extinction technologies without a functional ABS mechanism directly frustrates this core purpose, rendering such an interpretation incompatible with the VCLT framework.

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<sup>82</sup>Elisa Morgera et al., "Technology Transfer, Collaboration and Cooperation," in *Unraveling the Nagoya Protocol*, Brill (2015) 314–21, <http://www.jstor.org/stable/10.1163/j.ctt1w76vvq.30> (accessed Nov. 7, 2025).

<sup>83</sup> WTO — EC — Biotech (Case reference; see WTO AB reports on EC — Measures Affecting the Approval and Marketing of Biotech Products).

<sup>84</sup> See VCLT, *supra* note 18 (general note on treaty interpretation).

**i. Treaties apply to new and evolving technology**

The ICJ has affirmed that treaty obligations must be applied to "new and evolving technologies".<sup>85</sup> Reflecting this evolutive approach, the CBD's own governance body has already acted to ensure the treaty's relevance by adapting the benefit-sharing regime to address DSI.<sup>86</sup>

The application of DSI as "Biotechnology" in de-extinction when referred to otherwise by Ridus, violates the conditions of the CBD and Nagoya Protocol under ABS regimes, as technological applications are evolving norms and conditions.

**IV. Ridus has been committing "Bio Piracy"**

"Biopiracy" operationally refers to accessing or utilizing genetic resources and/or associated traditional knowledge in violation of the core principles of the CBD and Nagoya Protocol, specifically through the failure to establish MAT for the fair and equitable sharing of benefits.

Benefit Sharing is a Core Obligation in International Environmental Law. This Court's jurisprudence in *Barcelona Traction*<sup>87</sup> recognized obligations owed *erga omnes* for the benefit of the international community. ABS, as codified in CBD & Nagoya, reflects a similar collective interest.

**i. DSI must be treated as biotechnology to uphold ABS obligations**

As per COP Decision 16/2<sup>88</sup> explicitly provides that the ABS obligations of the CBD and the Nagoya Protocol shall extend to DSI on genetic resources, thereby confirming that the utilization

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<sup>85</sup> *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, supra note 38, ¶ 205.

<sup>86</sup> COP Decision 16/2, supra note 74

<sup>87</sup> *Barcelona Traction, Light and Power Co. (Belg. v. Spain)*, Judgment, 1970 I.C.J. 3, ¶ 33 (Feb. 5).

<sup>88</sup> COP-16, Decision 16/2, supra note 74.

of such information is within the scope of the ABS framework and triggers the obligation to share benefits.

Similarly, COP Decision 14/20<sup>89</sup> recognizes the relevance of DSI to the Convention's third objective i.e. benefit-sharing and initiates a process to resolve the issue, and COP Decision 15/9<sup>90</sup> establishes that benefits arising from the use of DSI on genetic resources are subject to fair and equitable sharing. Thus, Ridus disagreeing to treat DSI as biotechnology is failing to uphold such ABS obligations.

**ii. Ridus Has been Unilaterally exploiting genetic resources**

The utilization of genetic resources for de-extinction projects, absent a fully implemented ABS framework, constitutes a fundamental frustration of the object and purpose of the CBD and the Nagoya Protocol. The core legal and ethical aim of this regime is to prevent the unilateral appropriation and exploitation of genetic resources.<sup>91</sup>

Ridus's exploitation of the DSI to conduct R&D and de-extinction [R.16] of the Royal Panther, as well as their commercialization has been done unilaterally by them alone [R. 34]. Failure to share benefits erodes not only Anecoyon's rights, but the collective equity of the Convention regime.

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<sup>89</sup> COP-14, Decision 14/20 (CBD COP-14/20).

<sup>90</sup> COP-15, Decision 15/9 (CBD COP-15/9).

<sup>91</sup> Greiber et al., *An Explanatory Guide to the Nagoya Protocol on Access and Benefit-sharing*, IUCN (2012) (same as supra note 1).

**(B). THE SIDNEY ANIMAL PARK IS A USER OF DSI ON GENETIC RESOURCES FOR PURPOSES OF CBD DECISION 16/2 AND THE SIDNEY ANIMAL PARK IS ENGAGED IN COMMERCIAL ACTIVITY COVERED BY A SECTOR CURRENTLY LISTED IN CBD DECISION 16/2**

**I. Anecoyon's Protective Measures are Supported by the Object and Purpose of the CBD**

As per the Court's principle that substance prevails over form, The Park's "non-profit" label cannot be used as a pretext to conceal its significant revenue-generating activities from its ABS obligations.<sup>92</sup>

**i. Revenue derived from the park is tied to DSI-derived organisms, and thus**

The revenue generated by Sidney Animal Park [R.32] is intrinsically and demonstrably tied to its DSI-derived organisms.<sup>93</sup>

Sidney Animal Park's operations constitute commercial utilization of DSI as defined by COP Decision 16/2, unequivocally triggering mandatory monetary benefit-sharing obligations.<sup>94</sup> Without DSI utilization, the revenue-generating attractions would not exist. This satisfies the requirement that sectors "directly or indirectly benefit from DSI use in their commercial activities".<sup>95</sup>

As an entity whose primary attractions and thus its revenue stream are direct products of applied biotechnology using DSI, the Park falls squarely within the scope of users who must contribute a

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<sup>92</sup> *Whaling in the Antarctic*, supra note 53, ¶ 227

<sup>93</sup> CBD Secretariat, *Califund Guide* (DSI-GR), available at <https://www.cbd.int/dsi-gr/califund.guide.pdf> (last visited Nov. 7, 2025).

<sup>94</sup> COP Decision 16/2, supra note 74, at 2 (encl. I, ¶ 2).

<sup>95</sup> COP Decision 16/2, supra note 74, annex 3.

percentage of their revenue or profits to the multilateral Cali Fund, ensuring that benefits from this modern form of genetic resource utilization are shared fairly and equitably.<sup>96</sup>

**ii. Ridus Zoo operations are commercial despite “conservation” branding**

Under ISIC "Botanical and zoological gardens and nature reserves activities."<sup>97</sup> This UN-sanctioned sectoral classification objectively identifies the Park's economic activity and solidifies its status as a "user" sector for the purposes of applying CBD Decision 16/2.<sup>98</sup> While the ISIC class includes conservation-oriented institutions, the financial thresholds and the "direct or indirect benefit" test within the Decision's modalities are the determining factors for commercial contribution.<sup>99</sup>

Therefore, this classification does not exempt the Park but rather precisely situates it within the scope of entities whose revenue must be evaluated against the Decision's criteria, confirming that its commercial-scale operations, regardless of branding, are captured by the multilateral benefit-sharing mechanism.

Under CITES activities as commercial if they are "generally intended to result in financial or other economic benefit"<sup>100</sup>. This objective reinforces the principle of "substance over form"<sup>101</sup> and confirms that, irrespective of any conservation branding, the Park's paid viewing model is commercial in both purpose and effect.

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<sup>96</sup> CBD Secretariat, *Califund Guide*, supra note 114.

<sup>97</sup> ISIC Rev.4, Class 9103

<sup>98</sup> CBD COP Decision 16/2, Enclosure I, ¶ 2 (COP 16/2), supra note 74.

<sup>99</sup> CBD COP Decision 16/2, Annex, ¶¶ 3, 5 (COP 16/2), supra note 74.

<sup>100</sup> CITES Resolution Conf. 5.10 (Rev. CoP19) (definition of “primarily commercial purposes” and Annex 1: Annotated Definition).

<sup>101</sup> *Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)*, Judgment, I.C.J. Rep. 2014, 226, ¶ 227

## II. Ridus Excluding DSI would undermine ABS goals & encourage digital biopiracy

Classifying de-extinction projects that utilize DSI as falling outside the ABS framework would fundamentally frustrate the object and purpose<sup>102</sup> of CBD<sup>103</sup> and Nagoya Protocol<sup>104</sup>. It would incentivize a practice of "digital biopiracy," as such committed by Ridus. An equitable outcome requires contributions from the broad range of commercial sectors that *benefit* from DSI, ensuring the burden of benefit-sharing is distributed fairly across the global value chain it enables, rather than falling unfairly on a few. This prevents "free-riding" and fulfills the CBD's core objective of fair and equitable benefit-sharing.<sup>105</sup>

A state must regulate a private smelter to prevent transboundary pollution, a Party to the CBD and Nagoya Protocol must take effective measures to ensure that private users<sup>106</sup> like Sidney Animal Park within its jurisdiction share the benefits arising from their utilization of genetic resources. Failure to regulate such users and prevent their uncompensated appropriation of genetic value constitutes a failure of the state's duty to "ensure".<sup>107</sup>

## III. Ridus publicly committed to the Cali Fund modality

State cannot act in a manner that contradicts its own prior conduct upon which other States have relied.<sup>108</sup> To allow Ridus to now exempt its domestic entities from the financial contributions that

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<sup>102</sup> *VCLT, supra note 18, art. 31(1)*.

<sup>103</sup> *CBD, supra note 5, art. 1 (objectives)*.

<sup>104</sup> *Nagoya Protocol, supra note 4, pmb. (see supra note 78)*.

<sup>105</sup> *North Sea Continental Shelf (1969) (ICJ Reports)*

<sup>106</sup> *Trail Smelter (U.S. v. Canada)*, Awards of 16 Apr. 1938 & 11 Mar. 1941

<sup>107</sup> *Nagoya Protocol, supra note 4, art. 14*.

<sup>108</sup> *Nuclear Tests (Australia v. France)*, Judgment, I.C.J. Rep. 1974, 253.

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form the core of this mechanism would be to permit an act of bad faith,<sup>109</sup> undermining the entire agreement and the trust upon which international cooperation depends.

State that publicly negotiated, adopted, and committed to implementing CBD Decision 16/2 and its multilateral Cali Fund modality<sup>110</sup> cannot subsequently resile from its core financial obligations. By endorsing the decision, the State created a legitimate expectation among other Parties that it would ensure compliance within its jurisdiction. Yet Ridus after committing to such has violated such obligations by resiling from the objectives.

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<sup>109</sup> *VCLT*, supra note 18, art. 26

<sup>110</sup> COP-16 (general reference to COP-16 work program), supra note 74.

**CONCLUSION**

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For the aforementioned reasons, Applicant, ANECOYON respectfully request this Honorable Court to adjudge and declare that:

For Questions Regarding Prior Informed Consent,

**(A) RIDUS'S CONDUCT VIOLATED THE PRIOR INFORMED PROVISIONS OF THE CBD AND NAGOYA PROTOCOL, TO THE EXTENT THEY ARE APPLICABLE; AND**

**(B) ANECOYON'S REFUSAL TO CONSENT BASED ON ITS OBJECTIONS TO DE-EXTINCTION IS NOT COUNTER TO THE CBD'S OBJECTIVES.**

And For Questions Regarding Benefit Sharing,

**(A) AS AN INITIAL MATTER, DSI USED FOR DE-EXTINCTION ACTIVITIES IS "BIOTECHNOLOGY" FOR THE PURPOSE OF THE CBD AND NAOGYA PROTOCOL; AND**

**(B) THE SIDNEY ANIMAL PARK IS A USER OF DSI ON GENETIC RESOURCES FOR PURPOSE OF CBD DECISION 16/2 AND THE SIDNEY ANIMAL PARK IS ENGAGED IN COMMERCIAL ACTIVITY COVERED BY A SECTOR CURRENTLY LISTED IN CBD DECISION 16/2.**

RESPECTFULLY SUBMITTED,

**AGENTS OF APPLICANT**