



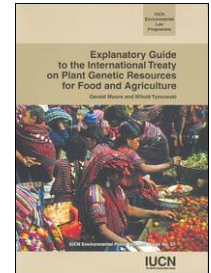
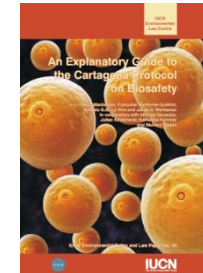
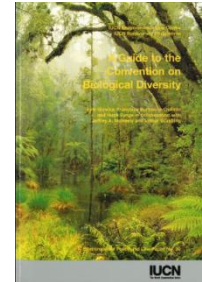
An IUCN Explanatory Guide to the Nagoya Protocol on ABS



Thomas Greiber, Senior Legal Officer, IUCN Environmental Law Centre
Sonia Peña Moreno, Senior Policy Officer, IUCN Global Policy Unit

The IUCN Explanatory Guide Series

- **3 existing guides**
 - **CBD**
 - **Cartagena Protocol**
 - **International Treaty on Plant Genetic Resources for Food and Agriculture**
- **1 under development**
 - **Nagoya Protocol**
- **1 planned**
 - **Nagoya-Kuala Lumpur Supplementary Protocol**





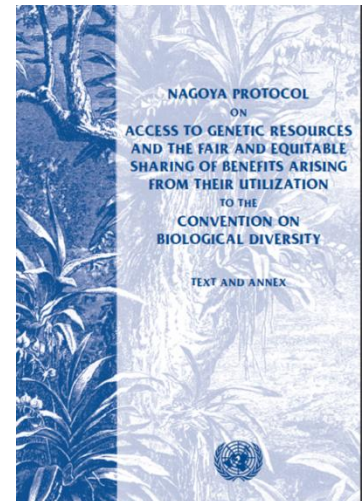
What is an Explanatory Guide?

- **Introduction** to a specific international agreement
- **Objective and neutral explanation** of agreement article by article
- **Not supposed to be an IUCN interpretation**, but a comprehensive analysis of legal provisions to support their understanding
- **Ideas and experiences** regarding implementation
- Provision of **supplementary material**



Why an Explanatory Guide?

- **Complex**, sometimes ambiguous provisions
- Need to **clarify text** and resulting obligations
- **Open questions** to be highlighted and explained
- **Outlook:** what comes next (ideas for implementation); **relationship** with other specialized instruments





Who is this Guide for?

- The target audience of this Guide is **broad**, including:
 - Lawyers as well as non-lawyers; policy-makers as well as the private sector and civil society
 - Everyone who did not sit on the negotiation table and is trying to understand the Protocol
 - Those who need to understand the Protocol more generally in order to put it in practice



Diverse Group of Authors and Perspectives



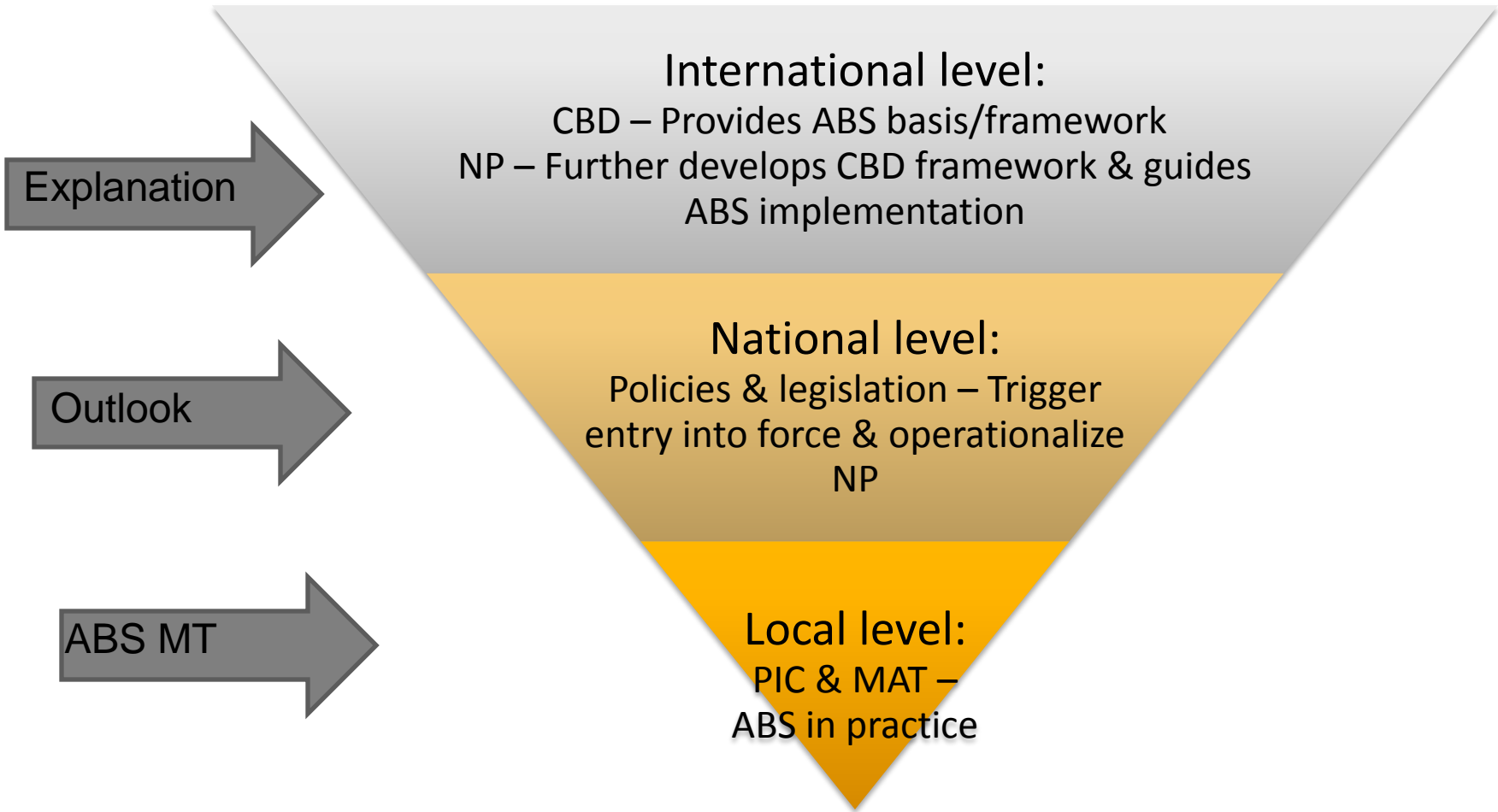


Structure of the Guide

- Introduction
 - Overview and challenges to implementation of ABS
 - Road to Nagoya and beyond
 - The Nagoya Protocol: an overview
 - Relationship with other international instruments and processes
- Explanation (Article by Article)
- Look forward (ideas related to implementation)
- Bibliography and glossary
- Supplementary materials



Where does the Guide Fit in?





Style of Writing

ARTICLE 6 ACCESS TO GENETIC RESOURCES

1. In the exercise of sovereign rights over natural resources, and subject to domestic access and benefit-sharing legislation or regulatory requirements, access to genetic resources for their utilization shall be subject to the...

BACKGROUND (Brief introduction to/summary of the article)

EXPLANATION (Analysis of text of each article, paragraph by paragraph)

- Objective and neutral
- Explaining instead of interpreting
- Emphasis is on providing clarity about legal provisions
- Different points of view need to be reflected



Style – Using Boxes

Box 12: Definition of Terms: International Agreement, Instrument and Organization

The term “international agreement” used in Article 4 refers specifically to agreements that create rights and obligations, formally known as a treaty. By definition, treaties are those agreements which are written, binding (e.g. create legal rights and duties), concluded by States or international organizations with treaty-making power, and governed by international law. International agreements binding as international law are often called treaties, agreements, conventions, charters or protocols.

The term “international instrument” is broader in nature, referring to all written diplomatic documents established by authorized persons which constitute an international act and define its content. This could include decisions taken by Parties under the aegis of an international agreement or international organization that do not qualify as a treaty. The use of the term may allow for greater flexibility in the creation of specialized ABS regimes.

An international organization is an intergovernmental organization. It functions according to its own rules: the constituent instruments, decisions and resolutions adopted in accordance with them, and the established practice of the organization. Negotiations may also take place within the organization to develop new agreements and instruments. They should be paid due regard to in the mutually supportive implementation of the Nagoya Protocol.

Sources: *Vienna Convention on the Law of Treaties*; *Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations*; C Parry, JP Grant & JC Barker, *Parry & Grant Encyclopaedic Dictionary of International Law* (Oxford University Press, 2009);

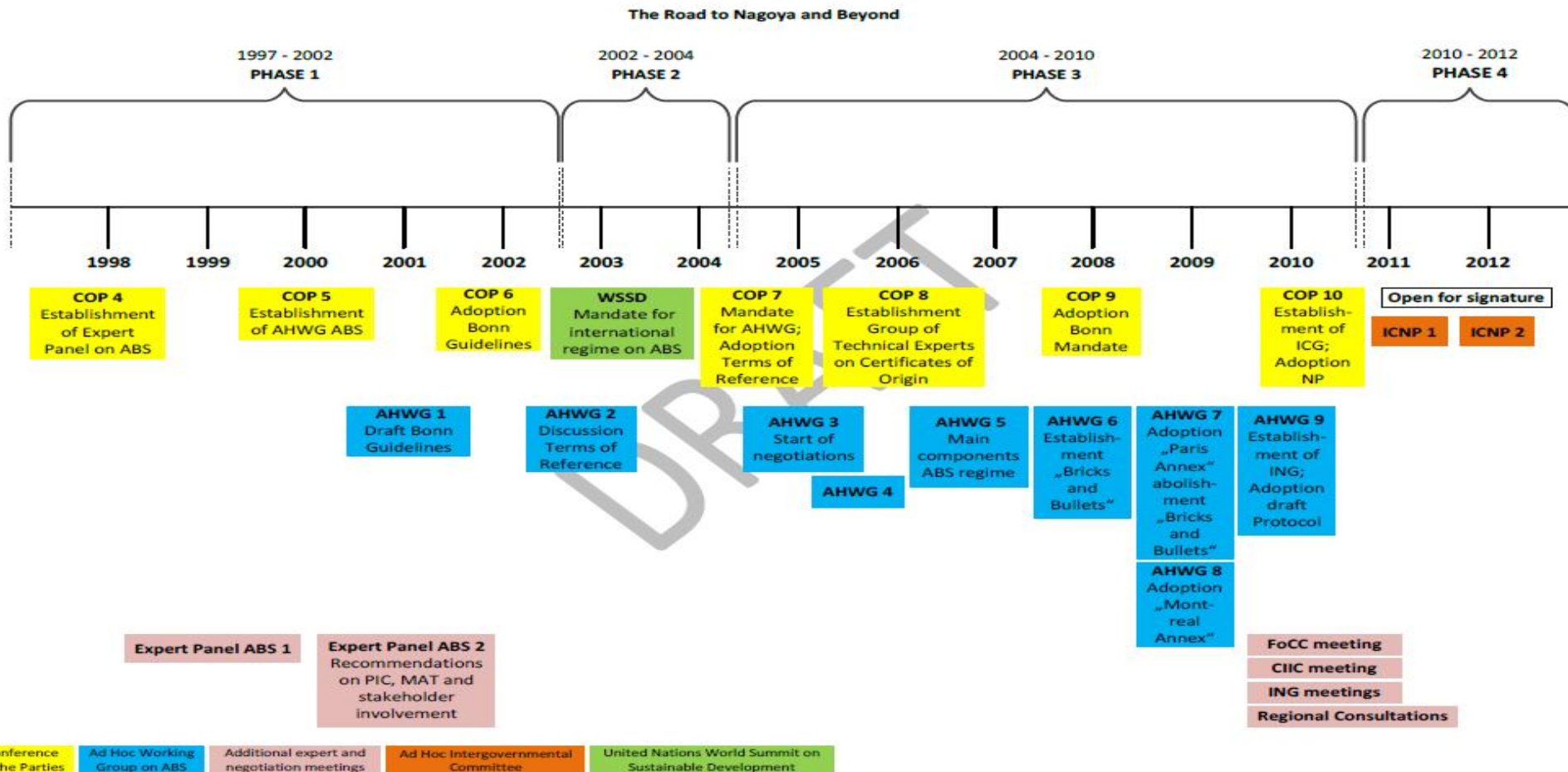
Style – Using Tables

Table 6: Provisions Indicating the Type of Information to be Made Available through the ABS CH

Article	Information to be provided		
	By provider	By user	By all
6(3)(e)	<ul style="list-style-type: none"> Permits or their equivalents issued at the time of access 		
14(2) and (3)			<ul style="list-style-type: none"> Information required pursuant to decisions of COP/MOP Legislative, administrative and policy measures on ABS Information on the NFP and CNA(s) Information on permits or their equivalent issued at the time of access as evidence of the decision to grant PIC and of the establishment of MAT
17(1)(a)(i) and (iii)		<ul style="list-style-type: none"> Information on designated checkpoints Relevant information related to PIC 	

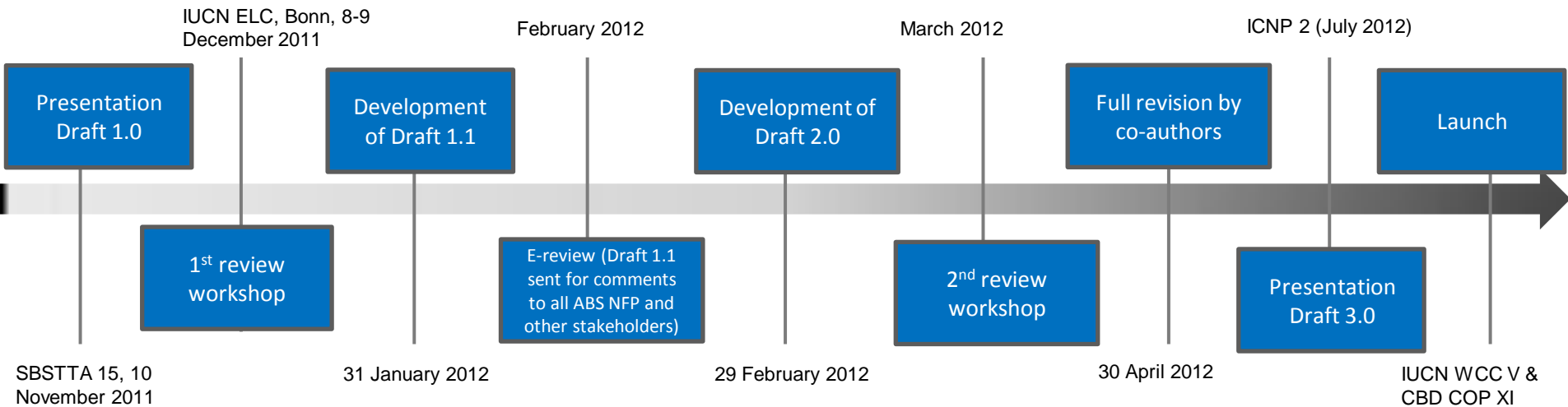


Style – Using Graphs and Charts





Process & Timeline





Review Process

- Identification of reviewers
 - Regional diversity
 - Different stakeholder groups (civil society, business, research, ILCs, etc.)
- Process
 - 2 review workshops (including participants from SCBD, UNEP, FAO, UNU, GIZ)
 - Electronic consultation
- Presentation of advanced drafts with wider public



Potential Further Products

Awareness raising and training materials, such as:

- Information briefs on specific topics and articles
- Role plays
- ABS Wiki
- Others???



Request for Copies

Thomas Greiber, Senior Legal Officer, IUCN
Environmental Law Centre (ELC)

thomas.greiber@iucn.org

Sonia Peña Moreno, Senior Policy Officer- Biodiversity,
IUCN Global Policy Unit (GPU)

Sonia.PenaMoreno@iucn.org