



The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization

Secretariat of the Convention on Biological Diversity

Living in harmony with nature





The Nagoya Protocol on Access and Benefit-sharing: Background

To further implement one of the CBD's three objectives:

- Conservation of biological diversity
- Sustainable use of its components
- **Fair and equitable sharing of benefits arising from the use of genetic resources**



The Nagoya Protocol on Access and Benefit-sharing: Background

Mandate for negotiations:

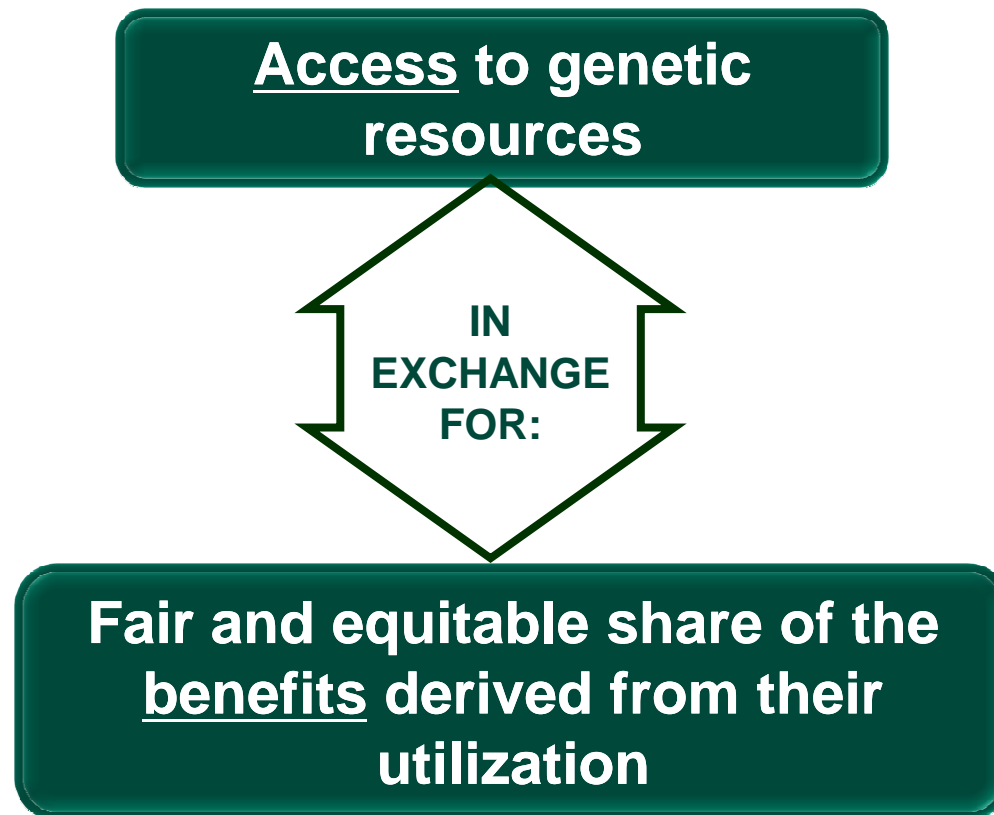
- **WSSD, 2002:** Political mandate for international regime on ABS
- **COP VII, 2004:** WG-ABS mandated to negotiate an international regime on ABS
- **COP X, 2010:** Finalization of the negotiations and adoption of the Nagoya Protocol on ABS





The Nagoya Protocol on Access and Benefit-sharing

The Nagoya Protocol aims at providing a legal framework to articulate the “**quid pro quo**” that underpins the CBD





The Nagoya Protocol: Context

Genetic resources provide a **wide range of products and services** essential to human well-being, notably in the following sectors:

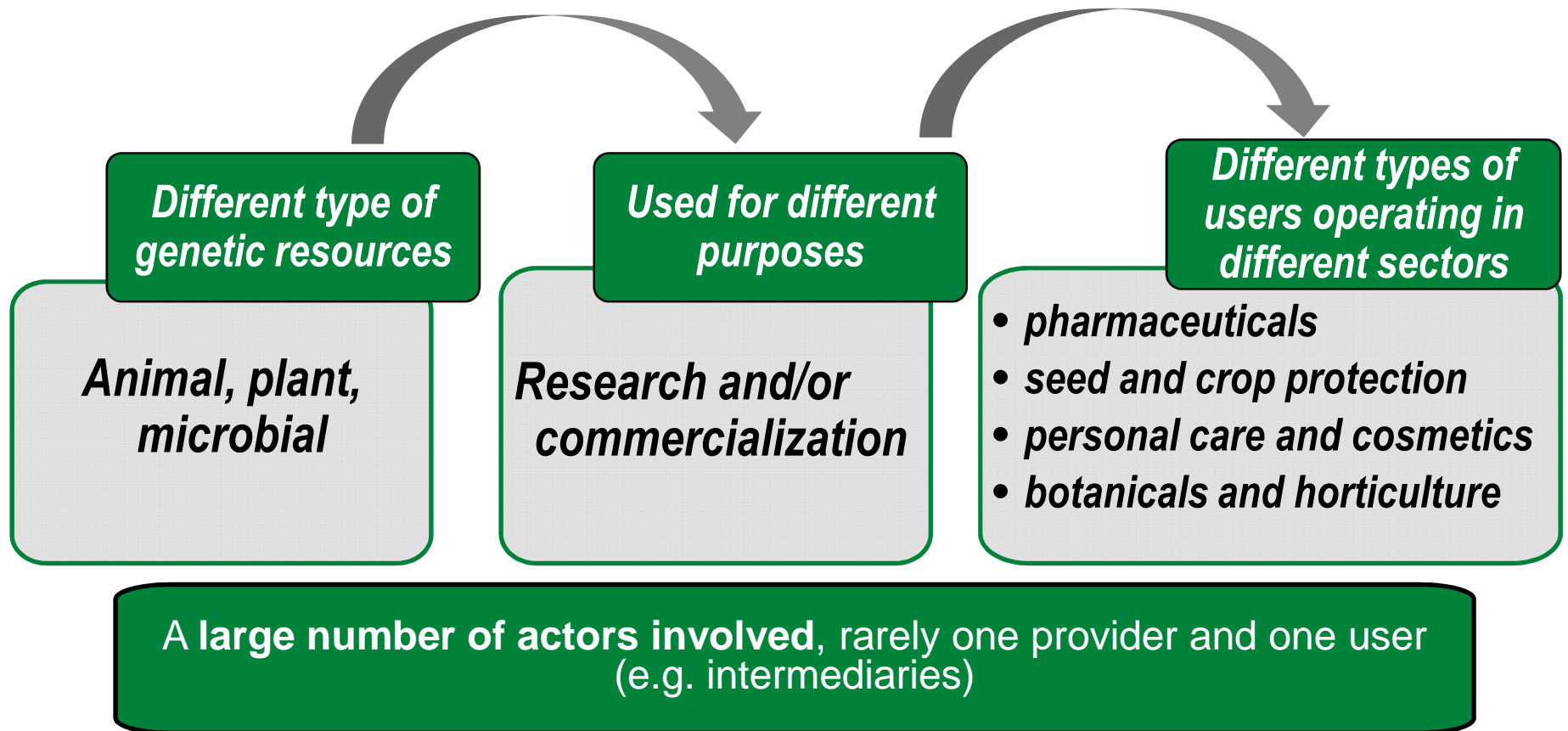
- Pharmaceuticals
- Personal care and cosmetics
- Seed and crop protection
- Botanicals and horticulture

Therefore, **countries have a shared interest** in the advancement of research on genetic resources as it leads to **new discoveries**.



The Nagoya Protocol: Context

Uses of genetic resources





The Nagoya Protocol: Context

Genetic resources can be put to **commercial use**:

- They can be used in crop protection, drug development, chemicals, detergents, and textiles among others
- **Examples:**
 - The development of drugs from the use of plant components, such as compounds found in resin and latex, to treat diseases
 - The commercialization of a gene sequence from wild plants to increase the resistance of food crops to agricultural pests



The Nagoya Protocol: Context

Genetic resources can be put to **non-commercial use**:

- Academic and public research institutions use genetic resources to increase our understanding of nature
- Genetic resources are a key source of information for taxonomy and ecosystem analysis





The Nagoya Protocol: Principles

Fundamental principles of ABS

- **Sovereign rights** of States over their natural resources
- **Access** to genetic resources is subject to the **prior informed consent** (PIC) of the provider country
- Users and providers must reach an **agreement** (mutually agreed terms) on the **sharing of benefits** that may result from their use



Why a Protocol on Access and Benefit-sharing?

Legal certainty through a transparent framework on ABS:

- **For providers:** to ensure benefit-sharing once genetic resources leave the provider country
 - To prevent misappropriation of genetic resources and associated traditional knowledge
- **For users:** to provide for clear procedures for access to genetic resources



The Nagoya Protocol: Objective

The fair and equitable sharing of the benefits arising from the utilization of genetic resources, thereby contributing to the conservation and sustainable use of biodiversity



The Nagoya Protocol: Scope

- Genetic resources **within the scope of Article 15 CBD** and the benefits arising from the utilization of such resources
- Traditional knowledge associated with genetic resources **within the scope of the CBD** and the benefits arising from the utilization of such knowledge





Core elements: Access

Obligation to establish ABS measures at national level providing for:

- Legal certainty, clarity and transparency.
- Fair and non-arbitrary rules and procedures.
- Clear rules and procedures for prior informed consent and mutually agreed terms.
- Issuance of a permit or equivalent as evidence that PIC was obtained and MAT were established.



Core elements: Access

Obligation to establish:

- A national focal point :
 - Make information on **procedures** for obtaining prior informed consent and mutually agreed terms available.
 - **Liaise** with the Secretariat
- One or more competent national authorities:
 - **Grant access** to genetic resources
 - **Advising** on applicable procedures.



Core elements: Fair and equitable sharing

Obligation to take measures:

For benefits arising from the utilization of genetic resources, as well as subsequent applications and commercialization, to be shared with provider country. Benefits to be shared are subject to mutually agreed terms (MAT).

Benefits may be monetary and non-monetary

- **benefits:** Access fees, milestone payments, licence fees, royalties, transfer of technology, sharing results of research, effective participation in research



Core elements: compliance

Compliance obligations ensuring benefit-sharing

- Obligation to **comply** with **national ABS legislation** and with **mutually agreed terms (MAT)**
- **Obligation to monitor** the utilization of the genetic resources, including by:
 - Designation of effective **check points**
 - Establishment of an **internationally recognized certificate of compliance** as evidence that PIC was obtained and MAT established



Core elements: traditional knowledge

- Indigenous and local communities rely on genetic resources and have helped preserve and maintain biodiversity over centuries
- Traditional knowledge related to biological resources can be an important source of information for identifying new uses of genetic resources





Core elements: traditional knowledge

The Protocol aims to ensure that:

- Indigenous and local communities obtain a **fair share of benefits** from the use of their:
 - **Traditional knowledge** associated to genetic resources
 - **Genetic resources**, in cases where they have established rights to grant access to them, in accordance with national legislation
- Access will be subject to their **prior informed consent**, taking into account their customary laws and procedures



The Nagoya Protocol: Opportunities

A global multilateral benefit-sharing mechanism

- To be further considered for benefits derived from the use of genetic resources and traditional knowledge that
 - Occur in **transboundary** situations, or
 - For which **prior informed consent cannot be granted**.

- Benefits from the mechanism are to be used to support the **conservation and sustainable use of biodiversity globally**.





The Nagoya Protocol: Opportunities

- **Enhance the contribution of biological diversity to sustainable development and human well-being**
 - Provides for **legal certainty** for users and providers of genetic resources
 - Provides incentives for the **promotion and protection of traditional knowledge**
 - Creates incentives to **conserve biological diversity** and the **sustainable use** of its components
 - By providing incentives and legal certainty it promotes the **advancement of research** on genetic resources leading to new discoveries for the benefit of all.



Signature and ratification

- **Protocol open for signature** at UN Headquarters in New York from 2 February 2011 until 1 February 2012
- **Entry into force** 90 days after the date of deposit of the 50th instrument of ratification
- **COP 11, 8 to 19 October 2012, India**
 - Target for convening the Nagoya Protocol's first meeting of the Parties
 - Fiftieth instrument of ratification to be deposited no later than **10 July 2012** to meet this objective



Support for the early entry into force of the Protocol

GEF Medium-Sized Project of 2 million USD including:

- **Briefing sessions** for decision-makers including parliamentarians, high level officials and UN bodies
- Inclusion of ABS component in **NBSAP workshops**
- **Capacity-building workshops** for national focal points and indigenous and local communities

Nagoya Protocol Implementation Fund

- Initial contribution of US\$ 12.5 million from Japan
- Modalities of operation to be determined



Steps for signature and ratification

Signature:

- A Head of State, Head of Government or Minister of Foreign Affairs may sign the Nagoya Protocol without an instrument of full powers. All other representatives must present to the Depositary a valid instrument of full powers authorising them to sign

Ratification, acceptance, approval and accession:

- Parties that sign can then take steps at the domestic level to deposit their instrument(s) of ratification, acceptance or approval

For further information visit: www.cbd.int/abs/becoming-party



Thank you for your attention!

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FOR MORE INFORMATION ON ABS:

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