

**NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND
EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION**
THE RATIONALE FOR EARLY RATIFICATION

Introduction

1. The Nagoya Protocol on Access to Genetic resources and the Fair and Equitable Sharing of Benefits arising from their utilization was adopted by the tenth meeting of the Conference of the Parties to the United Nations Convention on Biological Diversity (COP 10) held in Nagoya, Aichi Prefecture, Japan, on 18-29 October 2010. The Secretary-General of the United Nations Organization is the Depository of the Protocol, which can be accessed in the six official languages of the United Nations at www.cbd.int. The Protocol will be open for signature at the United Nations Headquarters in New York on 2 February 2011 and shall remain open until 1 February 2012. When adopting the Protocol, COP 10 called on the 193 Parties to the Convention on Biological Diversity (CBD) to sign the Protocol at the earliest opportunity and to deposit instruments of ratification, acceptance, approval, or accession as soon as possible. The sixty-fifth session of the General Assembly of the United Nations Organization also invited Parties to sign, ratify, accept, approve, or access to the Protocol at the earliest opportunity. The Protocol shall enter into force on the ninetieth day after the date of the fiftieth instrument of ratification, acceptance, approval, or accession by States or regional economic integration organizations that are Parties to the Convention. The first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Protocol shall be convened by the CBD Secretariat and held concurrently with the first meeting of the Conference of the Parties that is scheduled after the date of the entry into force of the Protocol. The eleventh meeting of the Conference of the Parties to the Convention on Biological Diversity (COP 11) will take place in India on 8 to 19 October 2012. All efforts shall be made to convene the first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Protocol in relation with COP 11. To this end, all efforts will be made to ensure the entry into force of the Protocol no later than 8 October 2012. To meet this deadline, the fiftieth instrument of ratification, acceptance, approval, or accession of Parties would need to be deposited no later than 10 July 2012.

2. The early entry into force of the Protocol is of a strategic importance. Some of the reasons in support of early ratification of the Nagoya Protocol by Parties to the Convention on Biological Diversity are listed below. The Nagoya Protocol provides:

I. Greater transparency and legal certainty for providers and users of genetic resources

- A **much-needed international legal framework** to govern access to genetic resources and benefit-sharing, **ending the uncertainty** that has characterized this activity since the Convention's entry into force. This will benefit both providers and users of genetic resources;
- More **predictable conditions of access** to genetic resources in provider countries that will benefit both providers and users;
- **Legal and monitoring tools** to help ensure users comply with the domestic rules governing access and with mutually agreed terms;
- **Greater legal certainty** that situations of non-compliance will be addressed by user countries;

II. Increased benefits for provider countries

- **Increased bilateral and multilateral opportunities for benefit-sharing** arising from utilization of genetic resources;
- Support for **capacity-building** based on a country's self-assessment of its national needs and priorities;
- Targeted **financial support** through its financial mechanism (The Global Environment Facility)
- A **Clearing-House** to share information on access and benefit-sharing;

III. Increased benefits for indigenous and local communities

- **Legal obligations for prior informed consent and benefit-sharing** with respect to traditional knowledge associated with genetic resources and genetic resources held by indigenous and local communities, in accordance with domestic law;

IV. Increased benefits to the international community

- Greater clarity and transparency to **facilitate and stimulate research** for the benefit of the international community as a whole;

V. Recognition of situations requiring special consideration in relation to access and benefit-sharing legislation or regulatory requirements

- A provision to **promote and encourage research on biodiversity**, while maintaining a provider country's interests in benefit-sharing;
- A provision for **emergency situations** that may threaten human, animal or plant health, while maintaining a provider country's interests in benefit-sharing;

- A provision recognizing the **importance of genetic resources for food and agriculture** and their special role for **food security**.

Conclusion

3. To support the early entry into force of the Protocol, a Medium Sized Project of the Global Environmental Facility has been submitted with a view to engaging relevant stakeholders and ensuring early ratification of the Protocol. The GEF Medium Sized Project will be implemented in coordination with the 2011-2012 work programme of the Japan Biodiversity Fund, as well as the 2011-2012 plan of action under the proposed strategy for the celebration of the United Nations Decade on Biodiversity for 2011-2020.

ANNEX

Awareness-raising and capacity-building activities planned for 2011-2012

1) Briefings

- a. Briefing to Permanent Missions of New York, 3-4 Feb. 2011
- b. Briefing of Permanent Missions in Geneva, 18 Feb. 2011
- c. Briefing of Permanent Missions in Nairobi, 26-27 Feb. 2011
- d. Briefing of Permanent Missions in Addis Ababa, 28 Feb.-1 March
- e. Briefing of Permanent Missions in New York, 8-9 March 2011
- f. Briefing at the 4th session of the ITPGRFA, 15 March 2011
- g. Briefing at 141st session of FAO Council, 12 April 2011
- h. Briefing at the margins of the Commission on Sustainable Development, May 2011
- i. Briefing of the diplomatic corps in Montreal and Ottawa, May 2011
- h. Briefing at the 66 session of the United Nations General Assembly, New York, October 2011

2) Workshops back to back with meetings of the Intergovernmental Committee meetings and the 8(j) Working Group meeting

- a. First capacity-building workshop on the Nagoya Protocol on Access and Benefit-sharing, back to back with first INC, 4-5 June 2010
- b. Second capacity-building workshop on the Nagoya Protocol on Access and Benefit-sharing, back to back with second INC, 21-22 April 2012
- c. Third capacity-building workshop on the Nagoya Protocol, back to back with the 8(j) Working Group meeting, 12-13 November 2011

3) Meetings with Parliamentarians

- a. Briefing of European Parliament
- b. Briefing of Africa Union
- c. Briefings of parliaments at regional level
- d. Briefings at national level in selected countries

4) Component on ABS in National Biodiversity Strategies and Action Plans workshops.

- a. To prepare an ABS module to be presented as one component of the NBSAP workshops.

For each of these activities, **communication and training tools** are to be developed.