

# 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

# 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



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## 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

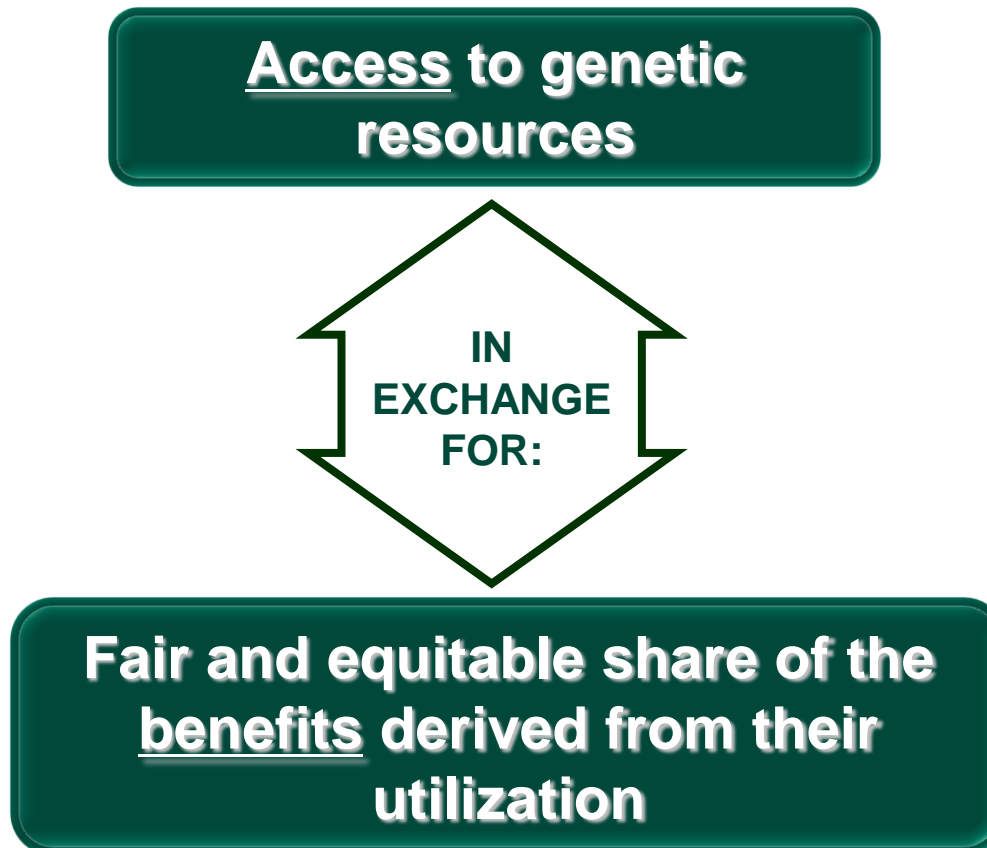


# The Nagoya Protocol on Access and Benefit-sharing



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



# 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**.

# 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

# Nagoya Protocol: Context



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

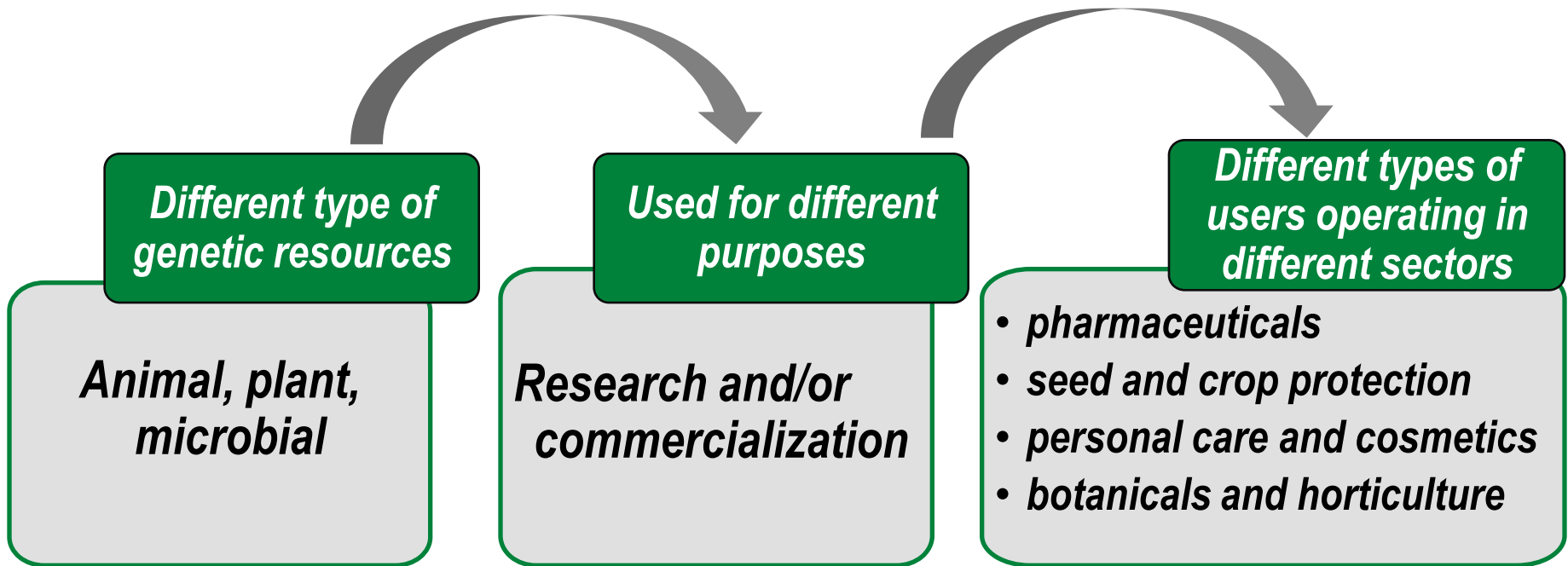
- Academic and public research institutions use genetic resources to increase our understanding of nature
- Genetic resources are a key source of information for taxonomy and ecosystem analysis



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# Nagoya Protocol: Context

## Uses of genetic resources



**A large number of actors involved, rarely one provider and one user (e.g. intermediaries)**



# 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 (MAT)**) on the **sharing of benefits** that may result from their use

# Why a Protocol on Access and Benefit-sharing?



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## Legal and transparent framework on ABS to provide legal certainty

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

# 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



# Nagoya Protocol: Advantages for users of genetic resources



## Clear procedures for access to genetic resources

- The Protocol establishes that Parties shall take measures that provide 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
  - the issuance of a permit or equivalent

# Nagoya Protocol: Advantages for users of genetic resources



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## Clear procedures for access to genetic resources

- Parties are to establish **National focal points** and **Competent National Authorities**, responsible to:
  - Provide information on **procedures** for obtaining prior informed consent and mutually agreed terms
  - **Grant access** to genetic resources
  - **Issue evidence** that prior informed consent and mutually agreed terms were obtained

# Nagoya Protocol: Advantages for providers of genetic resources



## 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

# Nagoya Protocol: Advantages for providers of genetic resources



## 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

# Nagoya Protocol: Non-commercial research



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## Special consideration for research when establishing ABS requirements

Parties are to create conditions to **promote research** for the **conservation** and **sustainable use** of biodiversity,

- including through **simplified measures on access** to genetic resources for non-commercial research purposes.





# Nagoya Protocol: Advantages for indigenous and local communities



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- 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**
- The Protocol will provide incentives for the **protection and promotion of traditional knowledge**



# Nagoya Protocol: Advantages for indigenous and local communities



## The Protocol aims to ensure that:

- Indigenous and local communities (ILC) 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 ILC **prior informed consent**, taking into account their customary laws and procedures

# Nagoya Protocol: Conservation and sustainable use of biodiversity



The Protocol creates **incentives** to conserve biological diversity and to sustainably use its components

## Global Multilateral Benefit-sharing Mechanism

- 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
- to be further considered by MoP after entry into force.

# Support for the early entry into force of the Protocol



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**GEF** has approved a 1 million USD project to support the early ratification and implementation, 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



# Signature and ratification



- Protocol opened 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, 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

# Steps for signature and ratification



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## 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 on the [process](http://www.cbd.int/abs/becoming-party) for signature and ratification, please visit: [www.cbd.int/abs/becoming-party](http://www.cbd.int/abs/becoming-party)



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# Thank you for your attention!

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## FOR MORE INFORMATION ON ABS:

[www.cbd.int/abs](http://www.cbd.int/abs)



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