

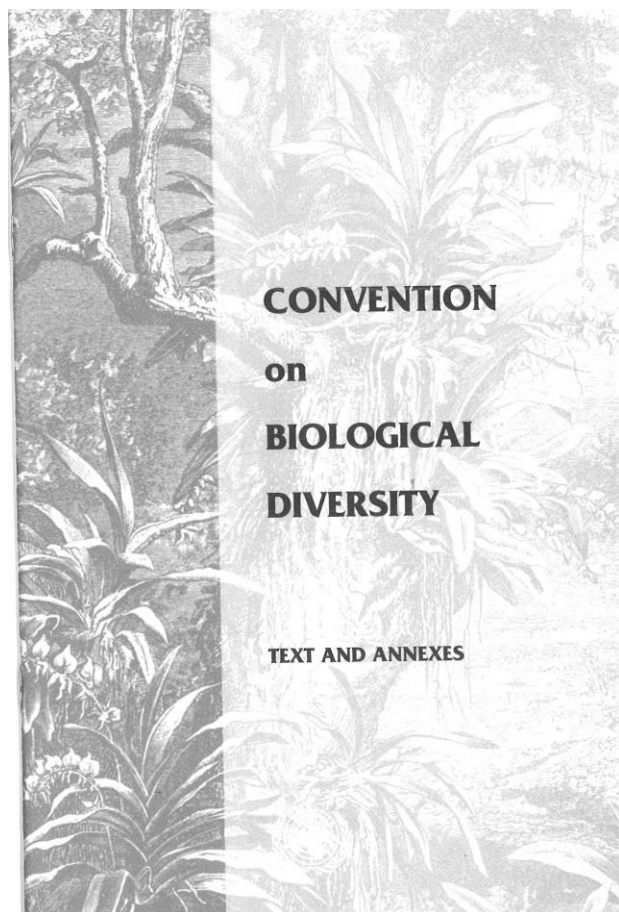


CABI's Access and Benefit Sharing policy and practice for compliant use of biological material

Nagoya Protocol

Dick Shaw on behalf of
David Smith - Director of Biological Resources
Americas and Caribbean Regional Consultation
10-11th February 2016

Background



- Convention on Biological Diversity (CBD) – Enacted **Dec 1992**
- CABI Policy on Intellectual Property Rights – 13th Review Conference 1996
- Nagoya Protocol on Access and Benefit Sharing (ABS) - **12 October 2014**
- EU Regulation on ABS (EU) No 511/2014
- Negotiations with CABI Member Countries to facilitate its work with genetic resources to deliver the CABI Mission



**All work with genetic resources
is affected**



All work with Biodiversity

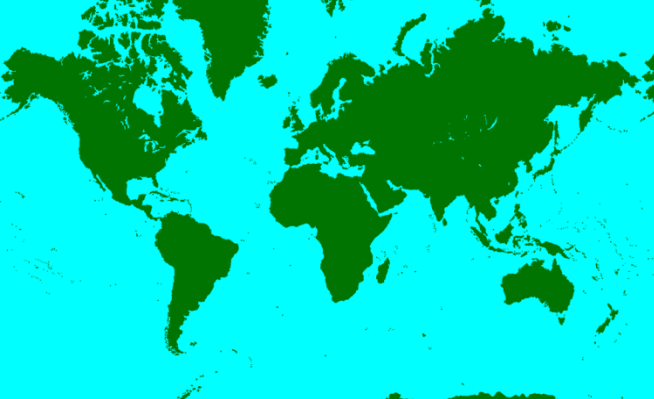
- Includes sampling/collection of biological materials for all uses
 - Diagnosis of disease
 - Biodiversity studies
 - Bioprospecting for useful properties

CABI's Policy

- To perform due diligence regarding access and benefit sharing
- To put in place best practices to comply with national legislation

CABI aims to engender trust, to facilitate science, and to ensure that benefits are shared





CABI accesses and collects biological materials for:

- diagnosis and identification of pests and diseases to advise on management recommendations;
- rapid identification of newly introduced alien species to facilitate containment and management;
- studies to assess impact of land-use and climate change on biodiversity and ecosystems services;
- long-term conservation to protect investment
- microbial solutions to improve health and nutrition;
- combatting threats to livelihoods, agriculture and the environment from pests and diseases;
- biological control agents for the management of invasive species, reduction of crop losses and minimisation of pesticide use; and
- increasing and improving scientific knowledge.





CABI's non-monetary benefits and contributions to the local economy include:

- sharing of R&D results;
- collaboration in education, training and research, programmes;
- joint publications and joint ownership of IP;
- access to *ex situ* facilities and to databases;
- transfer of scientific information, knowledge and technology; and
- institutional capacity-development to help build or maintain local collections

The CABI offer - Mutually Agreed Terms (MAT)



* UK Overseas Territories. **Associate Member

26 Member Countries plus all those we work in with biological materials

 Signed
  Party
  Ratified

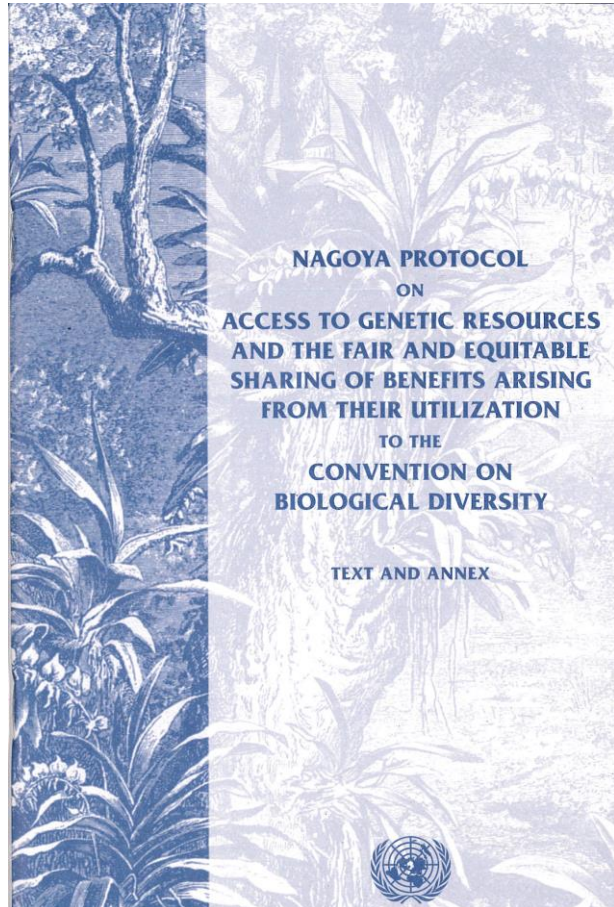
68 Parties; 70 Ratifications; 92 Signatures; Feb 2016



Implementation of the Nagoya Protocol and national requirements

- to **prevent the utilisation of genetic resources** or traditional knowledge associated with genetic resources which were **not accessed in accordance with the national access and benefit-sharing** legislation or regulatory requirements of a Party to the Nagoya Protocol
- to **support** the effective implementation of **benefit-sharing commitments** set out in mutually agreed terms between providers and users.
- to improve the conditions for **legal certainty** in connection with the utilisation of genetic resources and traditional knowledge.

The Nagoya Protocol



- Implemented to different extents in countries
- Some regional approaches e.g. the EU
- Requires:
 - PIC – Prior Informed Consent
 - MAT – Mutually Agreed Terms
 - MTA – Material Transfer Agreement
 - IRCC – Internationally Recognised Certificate of Compliance
- Data to be lodged with the Clearing House Mechanism
- Requirement for monitoring and reporting
- Enforcing agencies (National Measurement and Regulation Office, UK)
 - Fines and imprisonment



Simplified systems of access

- Most EU Member States will grant free access to their genetic resources (but perhaps not Croatia, Hungary, France, Norway and Spain)
- New Brazilian ABS regulation: Biodiversity Law (Law 13.123)
 1. For access to Brazilian biodiversity foreign researchers must work with a Brazilian institution that registers the research with the Brazilian National Authority (Conselho de Gestão do Patrimônio Genético – CGEN).
 2. Notification to the Brazilian National Authority is required before the economic exploitation of a finished product
 3. Pre-determined monetary benefits, 1% or up to 0.1% fixed by sectorial agreement made to the National Fund for Benefit Sharing
 4. A sample of genetic resource has to be deposited in CGEN recognized Trusted Depositary Collection
 5. The legislation came into force in October 2015

Negotiations with Member Countries



CAB INTERNATIONAL

13TH REVIEW CONFERENCE

Report on CABI's policy on
Intellectual Property Rights

Paper: RC96/9

17 – 19 July 1996

The Conference Centre
Imperial College of Science,
Technology and Medicine, London, UK

Please bring this paper with you

- Participation in national stakeholder discussions
- Consider Article 8 of the Nagoya Protocol: SPECIAL CONSIDERATIONS
 - **Create conditions to promote and encourage research**, including simplified measures on access for non-commercial research;
 - Pay due regard to cases of present or **imminent emergencies** that threaten or damage human, animal or plant health
- CABI must be compliant but wishes to negotiate special conditions with its member countries
- CABI's 13th Review Conference 1996 negotiated special arrangement for benefit sharing with member countries

CABI Nagoya Country Information Resource

CDF Nagoya Country data resource.xlsx - Microsoft Excel

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S
	Country Name	Signed CBD	Date of Ratification of CBD	Status	Signed Nagoya Protocol	Ratification of Nagoya Protocol	Party to Nagoya Protocol	ABS measures in place	Other relevant legislation	CBD Action: Access	Use	National Contact	CABI MC						
1	Alghanistan	12/04/1992	19/09/2002	rti			Non Party	None - Laws in pipeline	Environment Law and the EIA Regulations and has several more laws and regulations in the pipeline (Protected Area Regulations, Fauna Conservation and Hunting Regulation, Rangeland Law, Draft Forest Law)	Permit requirements	Negotiated on requesting permit?	H.R.H. Prince Mostapha Zaher, Director General/Advisor to the President of Afghanistan on Environment, National Environmental Protection Agency, Central Post Office, Box Number 209, Kabul, Afghanistan; Tel: +93 752 017 633; Email: mostapha_zaher@hotmail.com; da.nepa@hotmail.com; da.nepa@nepa.gov.af							
2	Albania		05/01/1994	acs		29/09/2010	acs	12/10/2014	Law on Biodiversity Protection (2006), Law on Protected Areas (2002, amended in 2008), Law on Wild Fauna Protection (2008), Law on the rules and procedures governing the international trade of endangered species of wild fauna and flora (2008), Law on Hunting (2008).	Permit requirements	Negotiated on requesting permit?	Ms. Elvana Flamaj, Biodiversity Expert Ministry of Environment Pruga e Duresit, No.27 Tirana; Tel: +355 4 2270 530; Fax: +355 4 2270 527							
3	Algeria	12/04/1992	14/03/1995	rti		02/02/2011		No Legislative, administrative or policy measures on access and benefit-sharing (MSR) available	A law on protected areas was adopted in 2011	No requirements outside protected areas to date	?	M. Amar Boumedjeur, Directeur, Protection de la Faune et de la Flore Direction Generale de la Faune et de la Flore Ministère de l'Agriculture et du Développement Rural Chemin Doudou Mekhtar Ben Aounou Alger; Tel: +213 2153 20; Fax: +213 2153 20							
4	Andorra		04/02/2019	acs				No Legislative, administrative or policy measures on access and benefit-sharing (MSR) available	No information	No requirements to date	No requirements to date	No National Focal Point							
5	Angola	12/04/1992	01/04/1994	rti				No Legislative, administrative or policy measures on access and benefit-sharing (MSR) available	No information	No requirements to date	No requirements to date	Mr. Miguel Neto Gonçalves Xavier, Technician Direction of Biodiversity, Department of Protected Areas Ministry of Environment Avenida 4 de Fevereiro Edifício Atlântico Luanda; Tel: +244 332 457 075							
6	Antigua and Barbuda		09/03/1992	rti		23/07/2011		No Legislative, administrative or policy measures on access and benefit-sharing (MSR) available	No information	No requirements to date	No requirements to date	Officer Environment Division Government of Antigua and Barbuda #11 Prime Minister's Drive Factory Road St. John's; Tel: +1 268 462 4625, 1 268 562 2568; Fax: +1 268 462 4625; Fax: +1 268 562 2568							
7	Argentina	12/04/1992	22/10/1994	rti		15/10/2011		No Legislative, administrative or policy measures on access and benefit-sharing (MSR) available	Drafting legislation with consideration being given to the CBD Bonn Guidelines Some governmental organizations, such as the National Institute for Agricultural Technology, are exchanging genetic resources in accordance with the rules of certain international	Advisable to collaborate with National Institute for Agricultural Technology	Advisable to collaborate with National Institute for Agricultural Technology	S.E. Sra. María Fabiana Loguzzo, Ministra, Directora General de Asuntos Ambientales Dirección General de Asuntos Ambientales Ministerio de Relaciones Exteriores y Culto Calle Esmeralda 1212, piso 14 Capital Federal 1007 Ciudad Autónoma Buenos Aires; Tel: +54 11 4819 7414; Fax: +54 11 4819 7413							
8								No Legislative, administrative or policy measures on access and benefit-sharing (MSR) available	Strategy for Developing Specialty Protected Areas and National Action Plan of Armenia (2002), Biodiversity			Mr. Gagik Manucharyan, Acting Head Biodiversity Policy Division Ministry of Nature							

Countries CABI has feedback from

- Brazil
- Kenya
- Switzerland
- UK

- In discussion with
- China
- Pakistan
- India
- Thailand
- Malaysia
- Indonesia

Common factors

- Work through in country partners
- Deposit samples in country
- Deliver CABI benefits
- Implement best practices in a transparent way

Next Steps

- Negotiations through Regional consultations
- Approval and endorsement at CABI Review conference



CABI best practices (1)

- If a CABI member country granting access through common agreement
 - Record sample details
 - Check that intended use of genetic resources accessed falls within the scope of CABI's work and ABS policy
 - If a marketable product is intended special terms must be negotiated before the project starts
 - Renegotiate new benefit sharing arrangements if applicable



CABI best practices (2)

- If not a country where CABI has negotiated access:
 - Check the ABS measures to ensure correct practice;
 - Where possible acquire PIC and MAT or Internationally Recognised Certificate of Compliance (IRCC) **before** submitting project proposals;
 - Acquire PIC and MAT **before** collecting or exporting
 - CABI intends to negotiate open access under a standard MAT



CABI best practices (3)

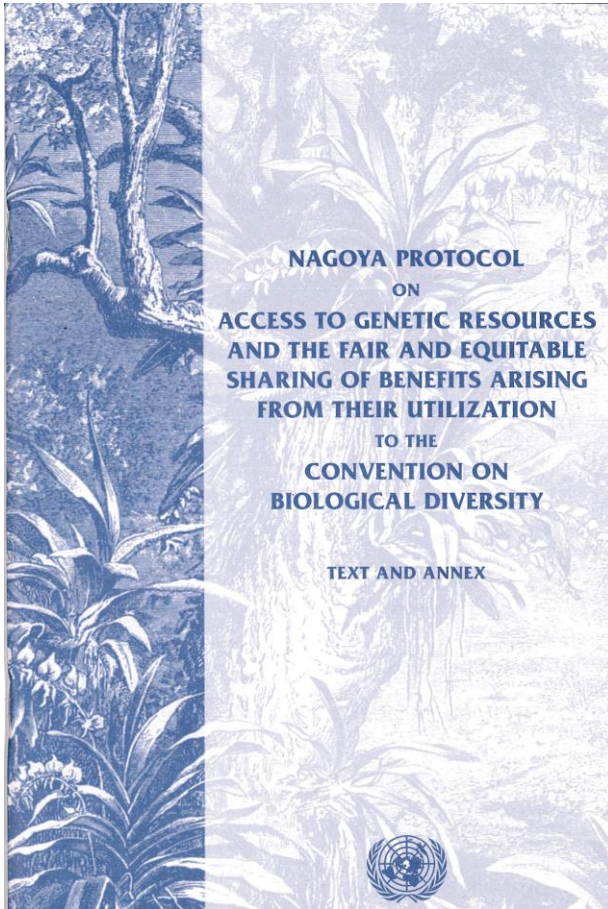
- Where there is no national legislation in place
 - Work with the National Focal Point (NFP) to establish MAT
 - If there is no NFP, work with an appropriate Ministry and/or government agency
- Where national legislation does not regulate access to the genetic resources CABI will still document what is done for future accountability



CABI best practices (4)

- Work through a local national partner
- Register all collections with details of where collected, permit and other legal agreements, who is using them and for what
- CABI will introduce reporting mechanisms back to provider countries
- Deposit samples in the provider country or make them available
- If there is a change in intended use, change of use will be negotiated with the National Authority

Summary



- Seeks open access for its staff to collect and utilise genetic resources to deliver its mission
- CABI will share benefits through delivery of its mission
- CABI has implemented best practice to ensure compliance and information transfer
- CABI invites member country representatives to consult with National Authorities to be able to endorse CABI's ABS policy at its Review Conference in 2016



Questions on CABI CBD and ABS Policy

- Have countries got objections to CABI's Policy?
- Are there specific contacts in your countries other than yourselves that CABI must negotiate with?
- Are there specific protocols or procedures that countries need us to address in CABI's best practice?
- What changes, if any, need to be made to the procedures and practices for your country to adopt CABI's policy at the 2016 CABI Review Conference?



Assalamualikum शुक्रिया xie-xie efharistó
mercí zikomo
ありがとう
obrigada
urakoze
danke
thank you
tak
gracias
ke itumetse
zikomo
terima kasih
dhanyawaad
asante

Dick Shaw
r.shaw@cabi.org