



## Press Brief

# Access and Benefit-sharing under the Convention on Biological Diversity and the Nagoya Protocol

## Why is this important?

The third objective of the Convention on Biological Diversity provides for “the fair and equitable sharing of the benefits arising out of the utilization of genetic resources”. The Convention, in its Article 15, sets out the principles and obligations of Parties related to this objective. Further elaborating the access and benefit-sharing (ABS) provisions of the Convention, the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization* was adopted in October 2010 and will enter into force in time for the first meeting of the Parties to the Protocol to take place concurrently with COP 12 from 13 to 17 October in Pyeongchang, Republic of Korea.

The Nagoya Protocol creates greater legal certainty and transparency for both providers and users of genetic resources and traditional knowledge associated with genetic resources by establishing more predictable conditions for ABS. Benefit-sharing with providers can take various forms (ranging from royalties to joint ventures, technology transfer and capacity-building). The Protocol serves also as an incentive for providers to grant access to their genetic resources and associated traditional knowledge for research or other purposes, which contributes to the advancement of science and to human well-being through the expansion of knowledge about biodiversity and the development of new products in pharmaceuticals, cosmetics, agriculture and other sectors. The Nagoya Protocol therefore contributes to the conservation and sustainable use of biodiversity, the preservation and protection of associated traditional knowledge and poverty reduction.

The entry into force of the Protocol represents a major step towards achieving Aichi Biodiversity Target 16, which states that “by 2015, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization is in force and operational, consistent with national legislation.”



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## What news to expect in Pyeongchang?

Access and benefit-sharing (ABS) will be discussed at the twelfth meeting of the COP and the first meeting of the Parties to the Nagoya Protocol (COP-MOP 1). Under agenda item 10, “Status of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization”, COP 12 will consider a report coming from the Intergovernmental Committee of the Nagoya Protocol. Under agenda item 18, “Access and benefit-sharing”, the COP may wish to request the Executive Secretary to prepare a note on possible ways and means to promote integrated approaches to issues at the interface between the ABS related provisions of the Convention and the provisions of the Nagoya Protocol.

COP-MOP 1 will discuss, inter alia: the access and benefit-sharing clearing-house; model contractual clauses, voluntary codes of conduct, guidelines and best practices and/or standards; capacity-building; awareness-raising; the need for and modalities of a global multilateral benefit-sharing mechanism; monitoring and reporting; cooperative procedures and institutional mechanisms to promote compliance and to address cases of non-compliance; guidance on resource mobilization for the implementation of the Nagoya Protocol; and guidance to the financial mechanism.

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## Press Brief

# The Access and Benefit-sharing Clearing-House and Information-sharing

## Why is this important?

The Access and Benefit-sharing Clearing-house (ABS Clearing-House) is a platform for exchanging information on ABS and a key tool for facilitating the implementation of the Nagoya Protocol, by enhancing legal certainty and transparency on procedures for access, and for monitoring the utilization of genetic resources along the value chain, including through the internationally recognized certificate of compliance. Parties are expected to provide and update the information required under the Protocol through this information-exchange system. The ABS Clearing-House will host relevant information regarding ABS and will facilitate connecting users and providers of genetic resources and associated traditional knowledge.

On the basis of guidance provided by the Intergovernmental Committee for the Nagoya Protocol (ICNP) and the informal advisory committee for the ABS Clearing-House, the Secretariat is implementing and administering the pilot phase of the ABS Clearing-House, taking into account ongoing feedback from users. Capacity-building workshops and training sessions on the ABS Clearing-House were carried out during regional workshops and prior to the third meeting of ICNP. The dedicated website accessible online at <http://absch.cbd.int> allows for registration and search of national and reference records by making use of common formats for submitting information in a standardized form.

The pilot phase of the ABS Clearing-House is being tested by Parties, indigenous and local communities, international organizations and relevant stakeholders. All users of the ABS Clearing-House are encouraged to publish records and provide feedback to the Executive Secretary. Efforts are underway, including an outreach and engagement campaign, to ensure that the ABS Clearing-House is fully operational when the Nagoya Protocol enters into force by the first meeting of the Parties to the Protocol.



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## What news to expect in Pyeongchang?

As the Nagoya Protocol enters into force, the operational phase of the ABS Clearing-House will be launched. A capacity-building workshop on the ABS Clearing-House will take place on 12 October prior to the first meeting of the Parties to the Nagoya Protocol.

At its first meeting, it is anticipated that the COP-MOP will, among other things:

- Consider and adopt the modalities of operation for the ABS Clearing-House refined by the Executive Secretary on the basis of the guidance provided by the third meeting of the Intergovernmental Committee.
- Consider the priorities for further development of the ABS Clearing-House on the basis of the report on progress and feedback received during the pilot phase.

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## Press Brief

# Awareness-raising

## Why is this important?

Communication, education and public awareness are central to the effective implementation of the Nagoya Protocol. The Protocol requires Parties to raise awareness of the importance of genetic resources and traditional knowledge associated with genetic resources, and related access and benefit-sharing issues. Effective awareness-raising plays a critical role for the overall success of the Nagoya Protocol and Article 21 of the Protocol sets out a list of potential measures to be taken into account by Parties.

Since the adoption of the Protocol, the Intergovernmental Committee for the Nagoya Protocol (ICNP) has made deliberations on an awareness-raising strategy intended to assist Parties in effectively implementing Article 21, as well as to guide the efforts of the Secretariat, stakeholders and indigenous and local communities. A draft awareness-raising strategy was prepared by the ICNP in its first meeting and revised in its second meeting, taking into consideration lessons learned from existing experience in this regard. The ICNP recommends that the first meeting of the COP-MOP adopt a revised version of the awareness-raising strategy in support of the effective implementation of the Protocol.



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## What news to expect in Pyeongchang?

What news to expect at Pyeongchang?

At its first meeting, it is anticipated that the COP-MOP will, among other things:

- Consider and adopt the awareness-raising strategy to support the effective implementation of the Nagoya Protocol
- Invite the Global Environment Facility to provide financial resources to Parties for early action on awareness-raising of the Protocol.

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## Press Brief

# Capacity-building

## Why is this important?

Parties are required to cooperate in the development and strengthening of human resources and institutional capacities in access and benefit-sharing (ABS) for the purpose of the effective implementation of the Nagoya Protocol, taking into account the needs of developing country Parties and Parties with economies in transition. Currently, many countries lack the necessary capacities to effectively implement the Protocol. For example, many do not yet have in place functional domestic legislative, administrative or policy measures on ABS and have not yet set up the institutional arrangements to support implementation of the Protocol at the national level. Many of them also lack experts in the area of ABS and related issues.

Since the adoption of the Protocol, the Intergovernmental Committee for the Nagoya Protocol (ICNP) has made deliberations on a strategic framework to assist in capacity-building. The Conference of the Parties, at its eleventh meeting, requested the Executive Secretary to organize an expert meeting to further develop a strategic framework. The third meeting of the ICNP deliberated on these proposed elements and recommended that the first meeting of the COP-MOP adopt a revised version of the strategic framework for capacity and development in support of the effective implementation of the Protocol.



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## What news to expect in Pyeongchang?

At its first meeting, it is anticipated that the COP-MOP will, among other things:

- Consider and adopt a strategic framework for capacity-building and development to support the effective implementation of the Nagoya Protocol
- Establish an informal advisory committee to provide advice to the Executive Secretary, until the third meeting of the COP-MOP, on matters related to the assessment of the effectiveness of the strategic framework.

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## Press Brief

# Compliance

## Why is this important?

A compliance mechanism under an international environmental treaty is normally devised to facilitate the fulfillment of Parties' obligations and to deal with non-compliance. Since the adoption of the Nagoya Protocol, Parties have started negotiating cooperative procedures and institutional mechanisms to promote compliance and to address cases of non-compliance.

At its first meeting, the Intergovernmental Committee of the Nagoya Protocol (ICNP) requested the Executive Secretary to convene an expert meeting to consider draft elements and options for compliance procedures and mechanisms, based on the views submitted by Parties and other stakeholders. The expert group meeting was convened and the outcomes of this work were considered by the second meeting of the ICNP, which produced a recommendation on the draft elements and options for compliance under the Nagoya Protocol.

The eleventh meeting of the Conference of the Parties decided to forward this draft to the third meeting of the ICNP for another round of discussions. After deliberations, the ICNP recommended that the revised version of the draft elements and options produced in its third meeting shall serve as the basis for future consideration of this issue with a view to their adoption at the first meeting of the COP-MOP.



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## What news to expect in Pyeongchang?

It is foreseen that, under agenda item 10, “Status of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization”, the COP will be invited to consider remaining work outlined in the recommendations of the Intergovernmental Committee for the Nagoya Protocol, in particular on cooperative procedures and institutional mechanisms to promote compliance with the Nagoya Protocol and address cases of non-compliance, establishing a contact group in order to advance work on these issues prior to COP-MOP 1.

At its first meeting, it is anticipated that the COP-MOP will, among other things:

- Consider and adopt the cooperative procedures and institutional mechanisms to promote compliance with the provisions of the Protocol and to address cases of non-compliance
- Establish a Compliance Committee and elect its members.

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## Press Brief

# Financial Mechanism

## Why is this important?

The Nagoya Protocol provides that the financial mechanism of the Convention on Biological Diversity shall be the financial mechanism for the Protocol. In 1994, the Conference of the Parties to the Convention (COP) designated the Global Environment Facility (GEF) as the institutional structure entrusted with the operation of the financial mechanism. The GEF functions under the authority and guidance of, and is accountable to, the COP for the purposes of the Convention. The Nagoya Protocol also encourages developed countries to provide additional financial and technological resources for the implementation of the provisions of the Protocol through bilateral, regional and multilateral channels.

The Intergovernmental Committee for the Nagoya Protocol (ICNP) in its second meeting made recommendations for the consideration of the first COP-MOP, but in order to ensure that timely guidance was provided to the GEF on certain issues with respect to the Nagoya Protocol, it also made recommendations for the consideration of the eleventh meeting of the COP. Accordingly, the COP provided guidance to the GEF with respect to programme priorities in the four-year framework for the period 2014-2018, the Nagoya Protocol Implementation Fund and support for activities prior to the entry into force of the Protocol. In its recommendation to the first COP-MOP, the ICNP proposed operational arrangements between the Convention and the Council of the GEF with respect to the Nagoya Protocol and provided draft guidance on: policy and strategy, programme priorities and eligibility criteria.



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## What news to expect in Pyeongchang?

At its first meeting, it is anticipated that the COP-MOP will, among other things:

- Consider and adopt guidance for the financial mechanism
- Recommend that the COP invites the Council of the GEF to submit the chapter on access and benefit-sharing of its report directly to the COP-MOP, in time for its consideration
- Decide to conduct periodic reviews of the effectiveness of the financial mechanism with respect to the implementation of the Nagoya Protocol
- Decide to undertake, in time for scheduled replenishments of the GEF Trust Fund, an assessment of the amount of funds that are necessary to assist developing country Parties and Parties with economies in transition in fulfilling their commitments under the Nagoya Protocol.

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## Press Brief

# The need for and Modalities of a Global Multilateral Benefit-sharing Mechanism

## Why is this important?

Parties shall consider the need for and modalities of a global multilateral approach to situations in which requirements linked to access to genetic resources and the sharing of benefits resulting from their utilization cannot be met on a bilateral level. The Nagoya Protocol indicates two situations to which such a mechanism could apply: transboundary situations and situations where it is not possible to grant or obtain prior informed consent. Against this background, the Protocol instructs Parties to deliberate on whether such a mechanism would be required and, if so, how it would operate.

The eleventh meeting of the COP decided on a process which included a request to conduct a broad online consultation and an invitation to Parties and stakeholders to submit their views on this topic. An expert meeting was convened and the outcomes of this work were considered by the third meeting of the Intergovernmental Committee, which produced recommendations for the consideration of the COP-MOP at its first meeting.



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## What news to expect in Pyeongchang?

At its first meeting, it is anticipated that the COP-MOP will, among other things:

- Agree to a roadmap on the way forward for deliberations on a global multilateral benefit-sharing mechanism which could include inviting Parties, other Governments, international organizations, indigenous and local communities, and relevant stakeholders to submit to the Executive Secretary views on:

(i) Situations which may support the need for a global multilateral benefit-sharing mechanism that are not covered under the bilateral approach

(ii) Possible modalities for a global multilateral benefit-sharing mechanism as well as information regarding the implications of different scenarios on these modalities

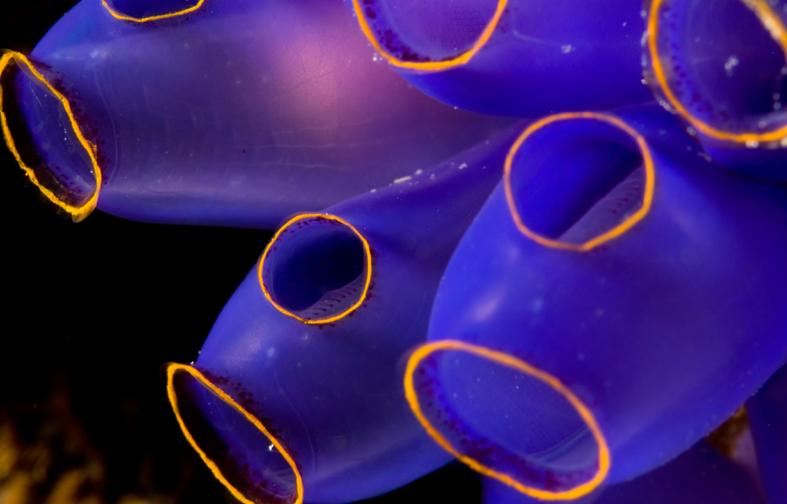
(iii) Areas requiring further consideration.

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## Press Brief

# Monitoring and Reporting

## Why is this important?

The Nagoya Protocol requires Parties to monitor the implementation of their obligations under the Protocol and to report to COP-MOP on measures taken to implement the Protocol. The Intergovernmental Committee for the Nagoya Protocol at its third meeting considered this issue and agreed on a series of recommendations to COP-MOP concerning the reporting intervals and the reporting format, which include a request to the Executive Secretary to prepare an interim national reporting format.

An interim national report could be a useful tool for both Parties and non-Parties to the Nagoya Protocol to assess the level of implementation of the Protocol, as well as gaps and needs in terms of capacity-building. Information submitted through the interim national report could also serve to share experiences, challenges and solutions among countries in relation to the implementation of the Nagoya Protocol.



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## What news to expect in Pyeongchang?

At its first meeting, it is anticipated that the COP-MOP will, among other things:

- Consider and adopt a format for submitting an interim national report on the implementation of the Protocol
- Invite Parties to submit through the ABS Clearing-House their first national report, twelve months prior to the third meeting of the COP-MOP
- Request the Global Environment Facility to make financial resources available to enable eligible Parties to prepare their national reports.

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## Press Brief

# Resource Mobilization

## Why is this important?

The availability of adequate and predictable financial resources is essential to ensure the effective implementation of the Nagoya Protocol. The Strategy for Resource Mobilization in support of the achievement of the three objectives of the Convention has as its main objective to "...substantially enhance international financial flows and domestic funding for biological diversity in order to achieve a substantial reduction of the current funding gaps in support of the effective implementation of the Convention's three objectives and the 2010 target...".

Considering that the Strategy for Resource Mobilization is to support the three objectives of the Convention and that the Nagoya Protocol was adopted with a view to implement the third objective, it can be inferred that the Strategy should support the implementation of the Nagoya Protocol. Parties recognize that the identification and mobilization of new financial resources in addition to those provided through the GEF may be needed for the effective implementation of the Protocol.

The Intergovernmental Committee for the Nagoya Protocol (ICNP) in its second meeting made recommendations for the consideration of the eleventh meeting of the Conference of the Parties (COP) and of the first COP-MOP. Accordingly, the eleventh meeting of the COP, decided to include consideration of resource mobilization for the Nagoya Protocol in the implementation of the Strategy for Resource Mobilization. In its recommendation to the first COP-MOP, the ICNP proposes to include consideration of resource mobilization for the Protocol in the implementation of the Strategy for Resource Mobilization in support of the achievement of the three objectives of the Convention for the period 2008-2015 and in the development of National Biodiversity Strategies and Action Plans (NBSAPs).



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## What news to expect in Pyeongchang?

At its first meeting, it is anticipated that the COP-MOP will, among other things:

- Request the Executive Secretary to include consideration of resource mobilization for the Protocol in its activities in support of the Strategy for Resource Mobilization
- Encourage Parties to include the consideration of resource mobilization, including funding needs, gaps and priorities, as part of their planning processes towards the implementation of the Protocol, particularly by integrating such considerations into their NBSAPs
- Encourage Parties, other Governments, relevant organizations, the private sector and financial institutions to provide, in accordance with their capabilities, financial resources, including through new and innovative financial mechanisms, for the implementation of the Protocol and to include support to the implementation of the Protocol as a priority area for funding.

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## Press Brief

# Model Contractual Clauses, Voluntary Codes of Conduct, Guidelines and Best Practices and/or Standards

## Why is this important?

Mutually agreed terms are essential for the development of fair and equitable access and benefit-sharing (ABS) arrangements. In Article 19, the Nagoya Protocol refers to model ABS agreements and examples of sectoral and cross-sectoral contractual clauses as tools to provide useful guidance in the negotiation of mutually agreed terms, thus providing legal certainty while supporting the fair and equitable sharing of benefits and promoting compliance. Model ABS agreements and model contractual clauses can also play a key role in building capacity to negotiate mutually agreed terms and to promote equity and fairness in negotiations. Some examples can be found at [www.cbd.int/abs/resources/contracts](http://www.cbd.int/abs/resources/contracts). Likewise, Article 20 of the Nagoya Protocol refers to voluntary codes of conducts, guidelines, best practices and standards developed for different types of users of genetic resources. Examples can be found at [www.cbd.int/abs/instruments](http://www.cbd.int/abs/instruments).

Through promoting the use of model contractual clauses, codes of conduct, guidelines and best practices or standards, Articles 19 and 20 aim to bring consistency in the way access and use of genetic resources is being negotiated. Such consistency would help to bring more legal certainty to providers and users alike and would reduce transaction costs for ABS. At its third meeting, the Intergovernmental Committee of the Nagoya Protocol exchanged views on the development, updating and use of these tools and provided recommendations to be considered by the COP-MOP at its first meeting.



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## What news to expect in Pyeongchang?

At its first meeting, it is anticipated that the COP-MOP will, among other things:

- Encourage Parties, other Governments, international organizations, indigenous and local communities as well as relevant stakeholders to submit tools developed under Articles 19 and 20 to the ABS Clearing-House
- Encourage the updating of tools relevant to Articles 19 and 20 that were developed prior to the Nagoya Protocol
- Decide to take stock of the use of sectoral and cross-sectoral model contractual clauses, voluntary codes of conduct, guidelines and best practices and/or standards in relation to access and benefit-sharing four years following the entry into force of the Protocol and in conjunction with the first assessment and review of the Nagoya Protocol.

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