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CONFERENCE OF THE PARTIES TO THE CONVENTION
ON BIOLOGICAL DIVERSITY SERVING AS THE
MEETING OF THE PARTIES TO THE NAGOYA
PROTOCOL ON ACCESS TO GENETIC RESOURCES
AND THE FAIR AND EQUITABLE SHARING OF
BENEFITS ARISING FROM THEIR UTILIZATION

Second meeting

Cancun, Mexico, 4–17 December 2016

Item 5.1 of the provisional agenda*

UPDATED REPORT ON PROGRESS TOWARDS AICHI BIODIVERSITY TARGET 16 ON THE NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION

Note by the Executive Secretary

I. INTRODUCTION

1. At its tenth meeting, the Conference of the Parties adopted the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (decision X/1) and the Strategic Plan for Biodiversity, including the Aichi Biodiversity Targets, for the period 2011 to 2020 (decision X/2, annex).
2. Aichi Biodiversity Target 16 provides 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.”
3. The Nagoya Protocol entered into force on 12 October 2014, and, as of 9 September 2016, 85 Parties to the Convention had deposited their instruments of ratification, acceptance, approval or accession to the Protocol. The first part of Target 16 has therefore been met.
4. With respect to the second part of Target 16, a number of steps are to be taken by Parties to the Nagoya Protocol to ensure that it becomes operational, consistent with national legislation. Specifically, Parties to the Protocol are to (a) establish institutional structures, and (b) develop or revise legislative, administrative or policy measures on access and benefit-sharing (ABS) to implement the Protocol.¹ The present document examines steps taken by Parties to the Nagoya Protocol to ensure that it becomes operational.

* UNEP/CBD/NP/COP-MOP/2/1/Rev.1.

¹ See the quick guide developed for the target: <https://www.cbd.int/doc/strategic-plan/targets/T16-quick-guide-en.pdf>.

5. In addition, the national processes of many countries require them to adopt measures to implement an international treaty prior to its ratification. The present document also examines the progress of these countries towards ratification and implementation of the Nagoya Protocol.

6. As part of the review of progress in implementation, the Subsidiary Body on Implementation at its first meeting had before it a note by the Executive Secretary on progress made in the achievement of Aichi Biodiversity Target 16, as well as progress on intersessional activities carried out in accordance with decisions adopted by the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its first meeting (UNEP/CBD/SBI/1/3).²

7. The Subsidiary Body on Implementation considered the note prepared and adopted recommendation 1/2, which included:

(a) A request to the Executive Secretary to update the document on progress towards Aichi Biodiversity Target 16 on the Nagoya Protocol to reflect any additional developments related to ratification and implementation of the Protocol, on the basis of information received from Parties and non-Parties to the Protocol as well as information made available to the Access and Benefit-sharing Clearing-House (ABS Clearing-House), and to make the document available for the information of the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol (para. 2);

(b) An invitation to Parties and non-Parties to the Nagoya Protocol to provide the Secretariat with information regarding any additional developments related to ratification and implementation of the Protocol, as appropriate, in time for its inclusion in the revised document (para. 3);

(c) A draft decision for consideration by the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its second meeting (para. 4), which is reproduced in section VII;

(d) A draft decision for consideration by the Conference of the Parties at its thirteenth meeting (para. 5), to be considered under agenda item 9 of the Conference of the Parties (Interim review of progress towards the implementation of the Strategic Plan for Biodiversity 2011-2020 and the achievement of the Aichi Biodiversity Targets, and related means of implementation), which is also reproduced in section VII of this document;

8. Subsequently, a notification was sent to Parties³ and to non-Parties⁴ on 2 June 2016 (ref. 2016-070) to invite the submission of information regarding any additional developments related to ratification and implementation of the Nagoya Protocol. As of 2 September 2016, the Executive Secretary had received submissions from the following Parties to the Protocol: Belarus; Burundi; Comoros; Côte d'Ivoire; Czechia; Denmark; European Union; Finland; France; Germany; Hungary; India; Mexico; Republic of Moldova; Panama; Peru; Slovakia; Spain; Sweden; and United Kingdom of Great Britain and Northern Ireland. The Executive Secretary had also received submissions from the following non-Parties to the Protocol: Antigua and Barbuda; Australia; Iran (Islamic Republic of); Nepal; Poland; Sao Tome and Principe; Serbia; and Slovenia.

9. Against this background, the methodology used in preparing the current update on progress, including the sources of information considered, is presented in section II of the present document. Section III summarizes progress made by Parties in making the Protocol operational, including the institutional structures and ABS measures being established. Section IV provides an overview of progress made by non-Parties towards the ratification and implementation of the Protocol, including the

² Document UNEP/CBD/SBI/1/INF/7 compiles the submissions received.

³ For the purpose of the present document, the term "Parties" refers to Parties to the Convention on Biological Diversity that have ratified the Nagoya Protocol, including those for which the Protocol has not yet entered into force following the 90 day period set out in Article 33.2 of the Protocol.

⁴ For the purpose of the present document, the term "non-Parties" refers to Parties to the Convention on Biological Diversity that have not ratified the Nagoya Protocol.

institutional structures and ABS measures being established. Section V provides information regarding additional steps taken to support the implementation of the Protocol. Section VI draws conclusions on progress made in the achievement of Target 16 as well as progress towards ratification and implementation of the Protocol more generally. Finally, section VII reproduces two sets of draft decisions as recommended by the Subsidiary Body on Implementation for adoption by the Conference of the Parties and by the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol.

10. The present document complements the updated report on progress in the implementation of the Convention and the Strategic Plan for Biodiversity 2011-2020 and towards the achievement of the Aichi Biodiversity Targets (UNEP/CBD/COP/13/8).

11. Additionally, information document UNEP/CBD/NP/COP-MOP/2/INF/1 provides further details on different approaches taken by Parties and non-Parties to implement the Nagoya Protocol based on information made available to the Secretariat. It includes examples of country experiences in the establishment of institutional structures and ABS measures, as well as information on progress made by Parties and non-Parties in establishing ABS measures and on other steps taken towards the implementation of the Protocol. All submissions received in response to notification 2016-070 are also made available on the CBD website.⁵

II. METHODOLOGY

A. Steps taken towards the operationalization of the Protocol by Parties and non-Parties

12. Based on information available to the Secretariat, as further described below, the following steps towards implementation and operationalization of the Nagoya Protocol were examined:

(a) Progress in establishing the institutional structures required for implementing the Protocol. This includes information on countries that have established a national focal point, one or more competent national authorities and one or more checkpoints;

(b) Progress in establishing ABS legislative, administrative or policy measures⁶ to implement the provisions of the Protocol. This includes an analysis of:

- (i) Countries that have adopted one or more ABS legislative, administrative or policy measures since the adoption of the Protocol;
- (ii) Countries currently revising existing or developing new ABS legislative, administrative or policy measures to implement the Protocol;
- (iii) Countries planning to develop ABS legislative, administrative or policy measures to implement the Protocol;
- (iv) Countries that had ABS legislative, administrative or policy measures in place prior to the adoption of the Protocol.

13. The same criteria and methodology was followed for both Parties and non-Parties to the Protocol.

B. Steps taken towards the ratification of the Protocol by non-Parties

14. In order to assess the progress towards ratification⁷ of non-Parties, information on the following is presented and analysed:

- (a) Countries with a ratification process under way;

⁵ See <https://www.cbd.int/abs/np-mop2/submissions/>.

⁶ For the purpose of this document, National biodiversity strategies and action plans (NBSAPs), as well as legislative measures related to disclosure requirements or patent applications, were not considered ABS measures.

⁷ In the present document, “ratification” is understood to include the deposit of the instrument of ratification, acceptance, approval or accession by a State or regional economic integration organization that is a Party to the Convention on Biological Diversity.

- (b) Countries planning to ratify the Nagoya Protocol.

C. Relevant sources of information

15. The analysis in the present document is based on information submitted by Parties and non-Parties as follows:

(a) Information made available by countries to the ABS Clearing-House in accordance with Article 14 of the Protocol;⁸

(b) National biodiversity strategies and action plans (NBSAPs): In decision X/2, Parties to the Convention were urged to review, and as appropriate update and revise, their NBSAPs, in line with the Strategic Plan and the guidance adopted in decision IX/9, including by integrating their own national targets (paras. 3(b) and (c)). NBSAPs submitted by countries since the tenth meeting of the Conference of the Parties and until 9 September 2016 (a total of 102)⁹ were reviewed, and relevant information on the Nagoya Protocol, access and benefit-sharing and/or Target 16 identified and taken into consideration;

(c) Fifth national reports: In decision X/10, the Conference of the Parties decided that fifth national reports should focus on the implementation of the Strategic Plan and progress achieved towards the Aichi Biodiversity Targets. All national reports submitted as of 9 September 2016 (a total of 186¹⁰) have been reviewed and the relevant information on the Nagoya Protocol, access and benefit-sharing and/or Aichi Target 16 contained therein has been taken into consideration;

(d) Submissions from Parties and non-Parties received in response to the notifications 2015-142 and 2015-141 sent in December 2015 for the preparation of document UNEP/CBD/SBI/1/3 for the consideration of the Subsidiary on Implementation;¹¹

(e) Submissions from Parties and non-Parties received in response to the notification 2016-070 sent in June 2016;¹²

(f) Statements made by Parties and non-Parties at the first meeting of the Subsidiary Body on Implementation under item 4 on the review of progress in the implementation of the Convention and the Strategic Plan for Biodiversity 2011-2020 and item 5 on the review of progress towards Aichi Biodiversity Target 16 on the Nagoya Protocol.¹³

16. Additional sources of information available to the Secretariat include the following:

⁸ Information on competent national authorities, checkpoints, legislative, administrative or policy measures, and permits and their equivalent made available to the Access and Benefit-sharing Clearing-House (ABS Clearing-House) prior to 1 September 2016 was included in the document. The following Parties have made available national information in the ABS Clearing-House: Albania; Belarus; Benin; Cambodia; Comoros; Croatia; Czechia; Denmark; Dominican Republic; Ethiopia; European Union; Finland; Gambia; Germany; Guatemala; Guinea-Bissau; Honduras; Hungary; India; Malawi; Mexico; Netherlands; Norway; Peru; Slovakia; South Africa; Spain; Switzerland; Syrian Arab Republic; Uganda, United Kingdom of Great Britain and Northern Ireland; Viet Nam. The following non-Parties have also made information available: Brazil; Costa Rica; Estonia; Grenada; and Portugal.

⁹ NBSAPs from Latvia and Norway were not reviewed for not having been submitted in one of the six official languages of the United Nations. For further information on NBSAPs submitted to the Secretariat, see: <https://www.cbd.int/nbsap/>.

¹⁰ For further information on fifth national reports submitted to the Secretariat, see: <https://www.cbd.int/reports/nr5/>.

¹¹ The Executive Secretary received submissions from the following countries: Bangladesh; Belgium; Benin; Belgium; Comoros; Costa Rica; Côte d'Ivoire; Costa Rica; Croatia; Democratic Republic of the Congo; Denmark; Dominican Republic; Ethiopia; European Union; Germany; Hungary; India; Italy; Japan Mexico; Nepal; Niger; Peru; Philippines; South Africa; Serbia; South Africa; Spain; Sudan; Swaziland; Switzerland; Togo; United Kingdom of Great Britain and Northern Ireland; and Viet Nam.

¹² All submissions are available at: <https://www.cbd.int/abs/np-mop2/submissions/>.

¹³ The following countries reported on progress towards Target 16 at the first meeting of the Subsidiary Body on Implementation: Argentina; Belarus; Benin; Cameroon; China; Democratic Republic of the Congo; Ethiopia; European Union; Guatemala; Guinea; Indonesia; Japan; Malawi; Mexico; Micronesia (Federated States of); Morocco; Peru; Republic of Moldova; Sudan; Switzerland; Timor-Leste; Togo; Tunisia; Uganda; Uruguay; Yemen; and Zambia.

(a) Information gathered by the Secretariat regarding countries that had established ABS legislative, administrative or policy measures prior to the adoption of the Protocol. While a number of these countries are in the process of revising these measures, the situation is unclear for other countries which have not provided recent information on national developments;

(b) Information on competent national authorities submitted to the Secretariat prior to the adoption of the Nagoya Protocol that has not yet been made available to the ABS Clearing-House;

(c) Information on capacity-building and development projects providing direct support for country-level activities contributing to the implementation of the Nagoya Protocol, particularly for projects aimed at building capacity to develop, implement and enforce domestic legislative, administrative or policy measures on ABS, was taken into consideration as it provides an indication of countries that are planning to develop ABS measures.¹⁴

III. ASSESSMENT OF PROGRESS MADE BY PARTIES IN THE ACHIEVEMENT OF AICHI BIODIVERSITY TARGET 16

A. Status of progress by Parties in establishing the institutional structures required for implementing the Protocol

1. National focal points

17. As of 9 September 2016, 83 Parties to the Nagoya Protocol had designated a national focal point for ABS (97,6 % of Parties).¹⁵

2. Competent national authorities¹⁶

18. As of 9 September 2016, 32 Parties (37% of the Parties)¹⁷ had established one or more competent national authorities (CNAs), and 28 Parties had made this information available to the ABS Clearing-House (see table 1).

19. Further information provided to the ABS Clearing-House and in the submissions reveals that the majority of Parties that have established a CNA have designated a single CNA for the Protocol. For at least 21 Parties, the national focal point also fulfills the role of a CNA. Other Parties have designated more than one CNA for the Protocol.¹⁸

20. One Party had established a CNA prior to the adoption of the Nagoya Protocol but has not yet submitted updated information to the ABS Clearing-House. Therefore, it is unclear whether this country will establish one or more different CNAs for the implementation of the Protocol. In the submissions made in response to notifications 2015-141 and 2016-070, three Parties reported the designation of one or more CNAs, but this information had not yet been made available to the ABS Clearing-House.

¹⁴ See the report on progress on the implementation of the strategic framework for capacity-building and development for the Nagoya Protocol (UNEP/CBD/NP/COP-MOP/2/8). Countries participating in projects addressing key area 2 of the strategic framework for capacity-building and development (decision NP-1/8, annex) were considered to be planning to develop ABS measures.

¹⁵ See the ABS Clearing-House (www.absch.cbd.int).

¹⁶ Document UNEP/CBD/NP/COP-MOP/2/INF/1 provides information on examples of different approaches to establishing CNAs based on information available.

¹⁷ The following Parties had established CNAs as of 9 September 2016: Albania; Belarus; Benin; Cambodia; Comoros; Croatia; Czechia; Denmark; Hungary, Dominican Republic; Egypt; Ethiopia; Finland; Gambia; Germany; Guinea-Bissau; Honduras; Hungary; India; Malawi; Mexico; Norway; Panama; Peru; Republic of Moldova; Slovakia; South Africa; Sweden; Switzerland; Syrian Arab Republic; Uganda; Viet Nam; and United Kingdom of Great Britain and Northern Ireland.

¹⁸ For example, Belarus, Cambodia, Finland, Mexico, Peru, Syrian Arab Republic and Viet Nam.

Table 1. **Parties with CNA established as of 9 September 2016**

	<i>CNA in the ABS Clearing-House</i>	<i>CNA reported in the submission but not in the ABS Clearing-House</i>	<i>CNA prior to the Nagoya Protocol but not in the ABS Clearing-House</i>	<i>Total CNAs in place</i>
Number of Parties	28	3	1	32
Percentage of all Parties	33%	4%	1%	38%

21. In their submissions, Benin, Côte d'Ivoire, Niger, Panama, Peru and Spain reported on progress made towards the designation of one or more CNAs.¹⁹

3. *Checkpoints*²⁰

22. As of 9 September 2016, according to the information included in the ABS Clearing-House and in the submissions, 12 Parties had designated one or more checkpoints²¹ with a view to implementing Article 17 of the Protocol. In almost all cases, the CNA also serves as a checkpoint.

23. In its submission, the European Union provided information on Regulation (EU) 511/2014²² and Implementing Regulation (EU) 2015/1866.²³ These regulations are directly applicable in all 28 European Union Member States and implement the compliance “pillar” of the Protocol based on the principle of due diligence. More specifically, the regulations provide for the establishment of two checkpoints: one at the stage of receiving funding for research involving utilization of genetic resources and traditional knowledge associated with genetic resources, and another at the final stage of development of a product developed via the utilization of genetic resources or associated traditional knowledge. Due diligence declarations are to be submitted to the competent authorities of the European Union Member States. Such competent authorities need to be designated by the Member States under Article 6 of Regulation 511/2014. The designation of competent authorities in the individual Member States, in conjunction with the provisions of Article 7 of Regulation 511/2014, ensures that effective checkpoints under the Nagoya Protocol are established in the European Union.

24. In their submissions, Côte d'Ivoire, Czechia, France, Spain, Mexico and Viet Nam reported on progress made to designate one or more checkpoints.²⁴

4. *Other institutional structures established for implementing the Protocol*

25. Some Parties (for example, India, Peru and South Africa) provided information in their submissions on other institutional structures established to implement the Protocol, such as bodies for institutional coordination or the evaluation on permit applications.²⁵

¹⁹ For more information see submissions at: <https://www.cbd.int/abs/np-mop2/submissions/>.

²⁰ Document UNEP/CBD/NP/COP-MOP/2/INF/1 provides information on examples of different approaches to establishing checkpoints based on information available.

²¹ Belarus, Croatia, Denmark, Finland, Germany, Hungary, Peru, Slovakia, South Africa, Sweden, Switzerland, and the United Kingdom of Great Britain and Northern Ireland.

²² Regulation (EU) 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union.

²³ Commission Implementing Regulation (EU) 2015/1866 of 13 October 2015 laying down detailed rules for the implementation of Regulation (EU) No 511/2014 of the European Parliament and of the Council as regards the register of collections, monitoring user compliance and best practices.

²⁴ For more information see submissions at: <https://www.cbd.int/abs/np-mop2/submissions/>.

²⁵ See UNEP/CBD/NP/COP-MOP/2/INF/1 for more information.

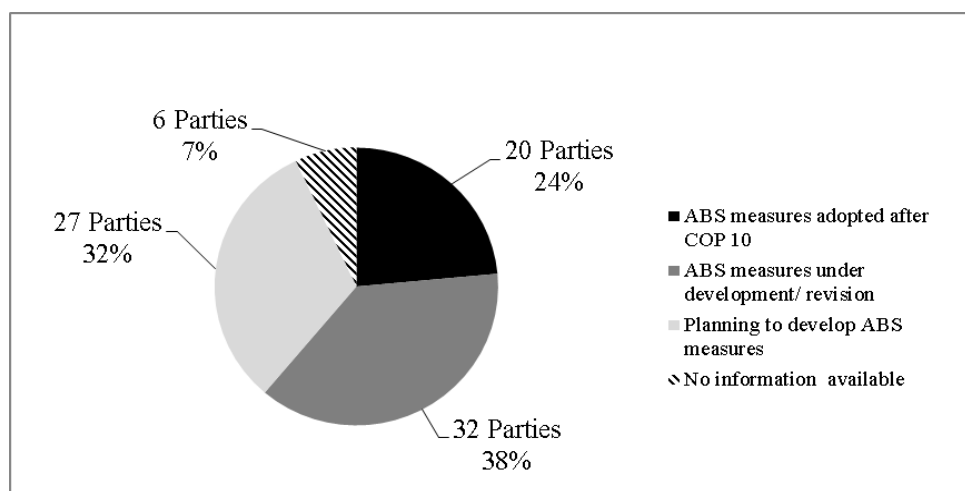
26. In order to make information available to the ABS Clearing-House, Parties first need to nominate a publishing authority that is responsible for authorizing the publication of all national records registered in the ABS Clearing-House and ensuring that the information made available is complete, non-confidential, relevant and up-to-date (decision NP-1/2, annex, para. 5). As of 9 September 2016, the Executive Secretary had received designation of publishing authorities from 60 Parties to the Protocol (70 per cent of the Parties).

B. Status of progress by Parties in establishing ABS domestic legislative, administrative or policy measures

27. Following the methodology described in section II above, available information from Parties has been organized in different categories depending on the level of progress in establishing domestic ABS legislative, administrative or policy measures to implement the provisions of the Protocol.

28. Figure 1 below provides an overview of progress by Parties to the Protocol in establishing domestic ABS measures as of 9 September 2016.

Figure 1. Overview of progress by Parties in establishing ABS measures as of 9 September 2016



1. Parties that established ABS measures following the adoption of the Nagoya Protocol

29. Available information shows that 20 Parties (24% of Parties) have established one or more ABS measure(s): two from the African Group, three from the Asia-Pacific Group, four from the Central and Eastern European Group (CEE), three from the Latin American and Caribbean Group (GRULAC) and eight from the Western European and Others Group (WEOG).

30. Information provided to the ABS Clearing-House and in the submissions indicates that different approaches have been taken in the development of measures to implement the Protocol. For instance, some Parties have reviewed their general biodiversity/environmental law after the adoption of the Nagoya Protocol to include ABS provisions, and are planning to adopt more detailed ABS measures, such as regulations, to implement the Protocol. Other Parties that had ABS measures in place prior to the tenth meeting of the Conference of the Parties to the Convention have decided to develop additional measures in line with the Nagoya Protocol. A number of Parties also provided additional information regarding domestic approaches taken to access and to regulate compliance.²⁶

²⁶ More details on those approaches are available in UNEP/CBD/NP/COP-MOP/2/INF/1.

2. *Parties currently developing or reviewing ABS measures with a view to implementing the Protocol*

31. Available information shows that 32 Parties (38% of Parties) are currently developing or revising ABS measure(s): 16 from Africa, 6 from the Asia-Pacific region, 2 from CEE, 5 from GRULAC, and 3 from WEOG.

32. A number of Parties (Belarus, Burundi, Comoros, Côte d'Ivoire, Czechia, Ethiopia, Mexico, Panama, Peru, South Africa, Sudan and Viet Nam) provided information in their submissions on the processes underway for developing or reviewing ABS measures.²⁷

3. *Parties that are planning to develop or revise ABS measures with a view to implementing the Protocol*

33. Available information shows that 27 Parties (32% of Parties) are planning to develop ABS measure(s) to implement the Protocol: 15 from Africa, 10 from the Asia-Pacific region, 1 from CEE and 1 from GRULAC.

4. *Parties that had established ABS measure(s) prior to the adoption of the Protocol*

34. Available information shows that 31 Parties (36% of Parties) had relevant ABS measures in place before the adoption of the Nagoya Protocol. As of 9 September 2016, 8 Parties (included in subsection 1 above) among them had developed new or revised at least one existing measure; 13 Parties (included in subsection 2 above) were in the process of revising one or more of their measures in order to be in line with the Nagoya Protocol; and 9 Parties (included in subsection 3 above) were planning to develop new or revise existing measures.

35. For the remaining Parties that had relevant ABS measures in place prior to the adoption of Nagoya Protocol, it is unclear, based on the information available, whether they are planning or are in the process of revising these measures in accordance with the Protocol.

36. The status of ABS measures adopted prior to the Protocol is not always clear. For example, some of these measures may still be applicable although work is being carried out to adopt new or revise existing measures. Making information on measures available to the ABS Clearing-House would provide further clarity on their status.

C. Other actions taken to implement the Protocol

37. Parties, in their submissions, included information on other actions and steps taken towards the implementation of the Protocol.²⁸

38. Some Parties have gone beyond the establishment of ABS measures and have reported on steps taken in the implementation of their national frameworks. For example, India and Peru provided information on the issuance of permits. As of 1 September 2016, four Parties had published information on the permit or its equivalent for constitution of an internationally recognized certificate of compliance: Guatemala, India, Mexico and South Africa. A total of 35 out of 38 permits were made available by India. Peru also provided additional information on the functioning of their systems to monitor the utilization of genetic resources.

39. Several Parties provided information on progress in the development of databases or information systems to support access and monitoring of the utilization of genetic resources (Belarus, Finland, Germany, Peru and the United Kingdom).

40. Parties also identified a number of additional actions and steps taken to raise awareness about the Protocol. Some, recognizing the importance of effectively engaging stakeholders and indigenous and

²⁷ More information on the processes under way is available in UNEP/CBD/NP/COP-MOP/2/INF/1.

²⁸ More information on other actions and steps taken can be found in UNEP/CBD/NP/COP-MOP/2/INF/1.

local communities in the implementation of the Protocol, indicated that participatory approaches and awareness-raising activities were being carried out to support its implementation (Burundi, Côte d'Ivoire, Denmark, the European Union, Germany, South Africa and the United Kingdom).

41. Bulgaria, Ethiopia, Germany, Philippines and Tajikistan have translated the Protocol into local languages.

42. Parties also provided information on capacity-building activities and projects undertaken to support the implementation of the Nagoya Protocol. For example Belarus, the European Union, Mexico, Panama, Peru, the United Kingdom provided information on national capacity-building activities and workshops to support implementation of the Protocol. Additional information on capacity-building and development initiatives is provided in the report on progress on the implementation of the strategic framework for capacity-building and development for the Nagoya Protocol (UNEP/CBD/NP/COP-MOP/2/8).

IV. ASSESSMENT OF PROGRESS MADE BY NON-PARTIES TOWARDS RATIFICATION AND IMPLEMENTATION OF THE NAGOYA PROTOCOL

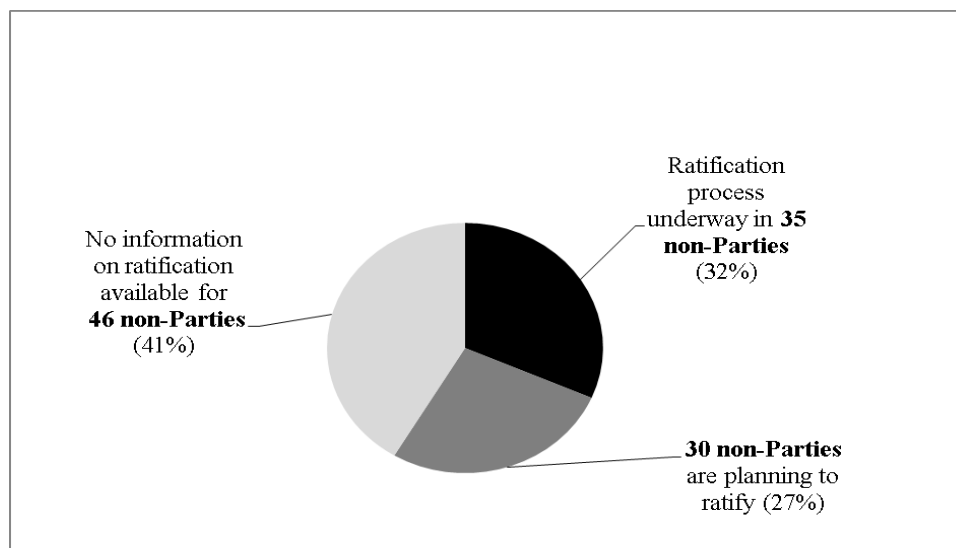
43. This section provides an overview of progress made by non-Parties towards ratification and implementation of the Protocol.

44. In accordance with their national processes, many countries are required to adopt measures to implement an international treaty prior to its ratification. The steps taken by non-Parties to implement the Nagoya Protocol as they are moving towards ratification are therefore also examined below.

A. Status of progress by non-Parties towards ratifying the Protocol

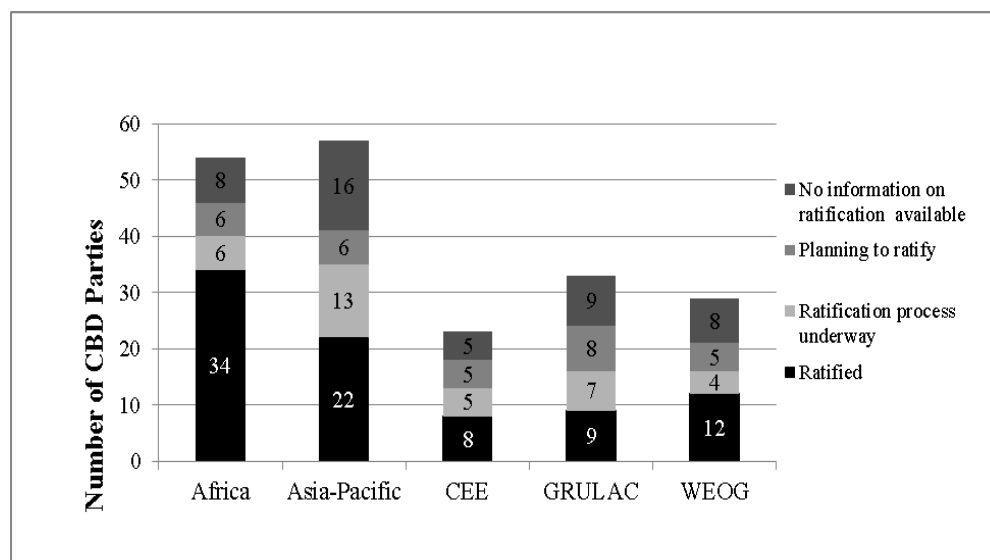
45. As of 9 September 2016, 85 countries had ratified the Protocol. With regard to progress towards ratification made by the 113 non-Parties, figure 2 below shows that, as of 9 September 2016, the process of ratification is under way in 35 countries (32% of non-Parties) and that 30 countries (27% of non-Parties) are planning to ratify. For the remaining 46 countries, no information is available regarding progress towards ratification.

Figure 2. Overview of progress by Non-Parties towards ratification of the Nagoya Protocol as of 9 September 2016



46. The overall status of progress towards ratification of the Protocol by the different United Nations regional groups is presented in figure 3 below, as of 9 September 2016.

Figure 3. Overview of progress towards ratification of the Nagoya Protocol per region as of 9 September 2016



47. In their submissions, Antigua and Barbuda, Italy, Nepal, Poland, Sao Tome and Principe, Serbia and Swaziland provided further information on progress made towards ratification and indicated that they were very close to finalizing their national processes and depositing their instrument of ratification or accession to the Nagoya Protocol. Bangladesh, Costa Rica, Italy, the Islamic Republic of Iran, Japan and Slovenia also provided details on the process under way towards ratification.²⁹

B. Status of progress by non-Parties in establishing institutional structures

1. National focal points

48. As of 9 September 2016, 88 out of 111 non-Parties to the Protocol had designated a national focal point for ABS.

2. Competent national authorities³⁰

49. As of 9 September 2016, 24 countries (22% of non-Parties) had established one or more CNAs. Five non-Parties among them had made this information available to the ABS Clearing-House (see table 2). A total of 16 non-Parties had established a CNA prior to the adoption of the Nagoya Protocol, but it is not clear whether these are also to be CNAs under the Nagoya Protocol. In their submissions, three countries reported the designation of a CNA, but this information had not yet been made available to the ABS Clearing-House.

²⁹ For more information see submissions at: <https://www.cbd.int/abs/np-mop2/submissions/>.

³⁰ Document UNEP/CBD/NP/COP-MOP/2/INF/1 provides information on examples of different approaches to establishing CNAs based on information available.

Table 2. **Non-Parties with CNAs established as of 9 September 2016**

	<i>CNA in the ABS Clearing-House</i>	<i>CNA reported in the submission but not in the ABS Clearing-House</i>	<i>CNA prior to the Nagoya Protocol but not in the ABS Clearing-House</i>	<i>Total CNAs in place</i>
Number of non-Parties	5	3	16	24
Percentage of all non-Parties	5%	3%	14%	22%

3. *Checkpoints*³¹

50. As of 9 September 2016, according to the information contained in the ABS Clearing-House and in the submissions, two non-Parties (Poland and Slovenia) had designated one or more checkpoints. In their submissions, Antigua and Barbuda and Bangladesh reported on progress made to designate one or more checkpoints.

4. *Other institutional structures established for implementing the Protocol*

51. Some non-Parties (for example, Sao Tome and Principe and Slovenia) provided information in their submissions on other institutional structures established to implement the Protocol, such as bodies established for institutional coordination.³²

52. In order to make information available to the ABS Clearing-House, non-Parties first need to nominate a publishing authority who will authorize the publication of all national records registered in the ABS Clearing-House and ensure that the information made available is complete, non-confidential, relevant and up-to-date (decision NP-1/2, annex, para. 5). As of 9 September 2016, the Executive Secretary had received 19 designations of publishing authorities from non-Parties to the Protocol.

C. Status of progress by non-Parties in establishing ABS domestic legislative, administrative or policy measures

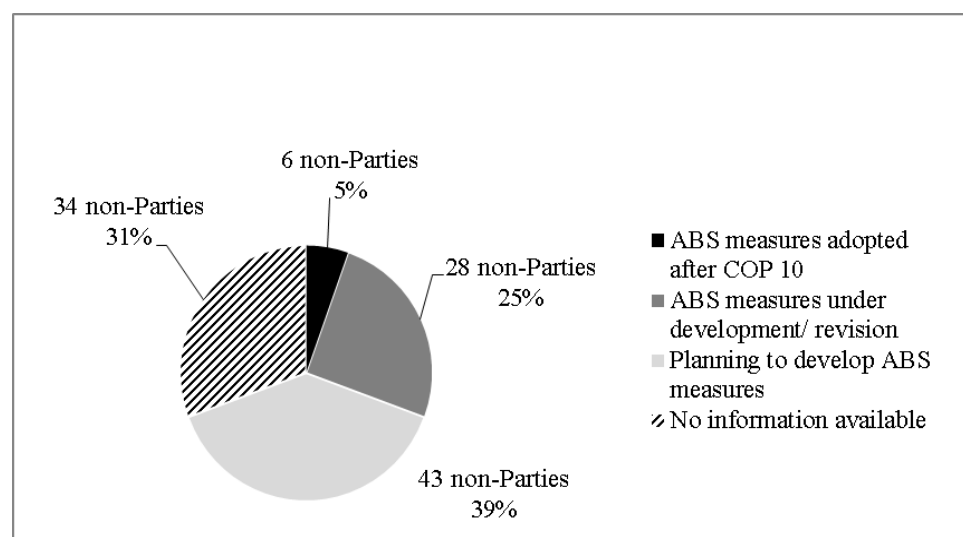
53. Following the methodology described in section II above, available information has been organized in different categories depending on the level of progress in establishing domestic ABS legislative, administrative or policy measures to implement the provisions of the Protocol.

54. Figure 4 provides an overview of progress by the 113 non-Parties, as of 9 September 2016, in establishing domestic ABS measures to implement the Protocol.

³¹ Document UNEP/CBD/NP/COP-MOP/2/INF/1 provides information on examples of different approaches to establishing checkpoints based on information available.

³² See UNEP/CBD/NP/COP-MOP/2/INF/1 for more information.

Figure 4. Overview of progress by non-Parties in establishing domestic ABS measures to implement the Protocol, as of 9 September 2016



1. *Non-Parties that established ABS measures following the adoption of the Nagoya Protocol*

55. Available information shows that six non-Parties (5% of non-Parties) have adopted one or more ABS measure(s): one from the African region, one from the Asia-Pacific region and four from GRULAC.³³

2. *Non-Parties currently developing or reviewing ABS measures with a view to implementing the Protocol*

56. Available information shows that 28 countries (25% of non-Parties) are currently developing new, or revising existing ABS measures(s): 4 from the African region, 12 from the Asia-Pacific region, 3 from CEE, 5 from GRULAC and 4 from WEOG.

57. A number of non-Parties (Bangladesh, Costa Rica, Nepal, Poland, Italy, Slovenia and Swaziland) provided information in their submissions on the processes under way for developing or reviewing ABS measures with a view to implementing the Protocol.³⁴

3. *Non-Parties that are planning to develop ABS measures with a view to implementing the Protocol*

58. Based on information available, 43 countries (39% of non-Parties) are planning to develop ABS measure(s): 11 from the African region, 10 from the Asia-Pacific region, 6 from CEE, 12 from GRULAC and 4 from WEOG.

59. In its submission, Antigua and Barbuda provided information on plans to develop or revise existing ABS measures.

³³ Document UNEP/CBD/NP/COP-MOP/2/INF/1 provides information on examples of different approaches to establishing ABS measures to implement the Protocol based on information available.

³⁴ More information on the processes under way is available in document UNEP/CBD/NP/COP-MOP/2/INF/1.

4. *Non-Parties that had established measure(s) prior to the adoption of the Protocol*

60. According to available information, 23 non-Parties had relevant ABS measures in place before the adoption of the Nagoya Protocol. As of 9 September 2016, three non-Parties (included in subsection 1 above) among them had developed new or revised at least one existing measure; seven non-Parties (included in subsection 2 above) were in the process of revising one or more of their measures in order to be in line with the Nagoya Protocol; and seven non-Parties (included in subsection 3 above) were planning to develop new or revise existing measures.

61. For the remaining six non-Parties that had relevant ABS measures in place prior to the adoption of Nagoya Protocol, it is unclear, based on the information available, whether they are planning or are in the process of revising these measures in accordance with the Protocol.

62. The status of ABS measures adopted prior to the Protocol is not always clear. For example, some of these measures may still be applicable although work is being carried out to adopt new or revise existing measures. Making information on measures available to the ABS Clearing-House would provide further clarity on their status.

D. Other actions taken towards implementation of the Protocol

63. Non-Parties, in their submissions, included information on other actions and steps taken towards the implementation of the Protocol.³⁵

64. Costa Rica provided information on progress in the development of databases or information systems to support access and monitoring of the utilization of genetic resources and provided additional information on the issuance of permits and on the functioning of their systems to monitor the utilization of genetic resources.

65. Some non-Parties also identified additional actions and steps taken to raise awareness on the Nagoya Protocol. Some countries, recognizing the importance of effectively engaging stakeholders and indigenous and local communities in the implementation of the Protocol, indicated that participatory approaches and awareness-raising activities are being carried out to support its implementation (Antigua and Barbuda, Costa Rica, Swaziland and Nepal).

66. Argentina, Brazil, Morocco, Nepal, Netherlands, Poland, the Republic of Korea, and the former Yugoslav Republic of Macedonia have translated the Protocol into local languages.

67. Countries also provided information on capacity-building activities and projects undertaken to support implementation of the Nagoya Protocol.³⁶

V. ADDITIONAL STEPS TAKEN TO SUPPORT THE IMPLEMENTATION OF THE PROTOCOL

68. In addition to steps taken by Parties and non-Parties to establish institutional structures and ABS measures to implement the Nagoya Protocol, Parties, non-Parties, international and regional organizations, indigenous and local communities as well as users of genetic resources and associated traditional knowledge are taking additional steps to support the effective implementation of the Protocol.

69. Some countries have developed regional approaches to ABS after the adoption of the Nagoya Protocol. For instance, in 2015, the African Union Commission adopted Guidelines for the Coordinated

³⁵ More information on other actions and steps taken can be found in document UNEP/CBD/NP/COP-MOP/2/INF/1.

³⁶ Further information on capacity-building and development activities is provided in document the report on progress on the implementation of the strategic framework for capacity-building and development for the Nagoya Protocol (UNEP/CBD/NP/COP-MOP/2/8).

Implementation of the Nagoya Protocol in Africa.³⁷ In addition, a regional strategy for the Central African Forest Commission (COMIFAC) was adopted in 2011. Other countries had adopted ABS regional approaches before the tenth meeting of the Conference of the Parties³⁸ that may still be relevant for the implementation of the Protocol.

70. With a view to assisting Governments in taking into account the importance of genetic resources for food and agriculture, their special role for food security and the distinctive features of the different subsectors of genetic resources for food and agriculture in the development and implementation of access and benefit-sharing measures, the Commission on Genetic Resources for Food and Agriculture (CGRFA) and the Conference of the Food and Agriculture Organization of the United Nations welcomed the Elements to Facilitate Domestic Implementation of Access and Benefit-Sharing for Different Subsectors of Genetic Resources for Food and Agriculture developed by the Team of Technical and Legal Experts on Access and Benefit-sharing.³⁹

71. In addition, with a view to ensuring the mutually supportive implementation of the Nagoya Protocol and the International Treaty of Plant Genetic Resources for Food and Agriculture (ITPGRFA), the Secretariats of both instruments have been working in close collaboration, including in the implementation of capacity-building activities.⁴⁰

72. Indigenous and local communities, as providers of traditional knowledge associated with genetic resources, are taking steps to ensure that such knowledge is accessed with their prior informed consent or approval and involvement and that mutually agreed terms are established to support the sharing of benefits. For instance, a number of initiatives and projects are supporting the development of community protocols by indigenous and local communities in relation to access to traditional knowledge associated with genetic resources.⁴¹ In this regard, the Secretariat is engaging with indigenous and local communities with a view to making information on community protocols, as well as customary laws and procedures relevant to ABS, available to the ABS Clearing-House.

73. Users of genetic resources from the business and scientific communities are also taking steps to ensure that their activities are in line with the Nagoya Protocol and measures adopted by Parties to implement the Protocol. These initiatives include developing or updating sectoral and cross-sectoral model contractual clauses for mutually agreed terms, and voluntary codes of conduct, guidelines and best practices and/or standards. Some of these tools are currently available on the CBD website⁴² and can be made available on the ABS Clearing-House. Some organizations are also carrying out awareness-raising and capacity-building activities in support of the Nagoya Protocol. Some examples of these initiatives are the following:

(a) Botanic Gardens Conservation International (BGCI), in collaboration with the Royal Botanic Gardens Kew, has created a number of learning modules on access and benefit sharing, mostly targeted to those working in botanic gardens;

(b) The Consortium of European Taxonomic Facilities (CETAF) adopted a code of conduct and best practices on access and benefit-sharing in 2014. It was developed in the context of Article 20 of

³⁷ The African Union Policy Framework comprises two sets of guidelines: Practical Guidelines and Strategic Guidelines. The Framework was adopted by the Assembly of the African Union at its 25th Ordinary Session.

³⁸ For example Decision 391 of the Andean Pact on Common Regime on Access to Genetic Resources, or the Nordic Ministerial Declaration on Access and Rights to Genetic Resources of 2003.

³⁹ The Elements to Facilitate Domestic Implementation of Access and Benefit-Sharing for Different Subsectors of Genetic Resources for Food and Agriculture are available at: <http://www.fao.org/3/a-i5033e.pdf>

⁴⁰ Further information on those activities is provided in the reports on progress on the implementation of the strategic framework for capacity-building and development for the Nagoya Protocol (UNEP/CBD/NP/COP-MOP/2/8) and cooperation with other international organizations, conventions and initiatives (UNEP/CBD/NP/COP-MOP/2/6).

⁴¹ See UNEP/CBD/SBI/1/INF/1 for more information on support provided by the Secretariat.

⁴² Model contractual clauses are made available at: <https://www.cbd.int/abs/resources/contracts.shtml> and voluntary codes of conduct, guidelines and best practices and/or standards at: <https://www.cbd.int/abs/instruments/default.shtml>

the Protocol, and Articles 8 and 13 of the European Union Regulation (EU) No 511/2014. The document outlines the governing principles under which collections are managed and collection-based research is conducted in CETAF member institutions and provides details of best practices for implementing these principles. The document includes a “Statement of use of biological material” to provide clarity on how CETAF members use and treat samples of biological material;

(c) The Union for Ethical BioTrade (UEBT) promotes the “sourcing with respect” of ingredients that come from biodiversity through a set of business practices that follow the Ethical BioTrade Principles and Criteria and which include access and benefit-sharing. UEBT has developed a number of resources to support the application of access and benefit-sharing principles in business practices and has contributed to raising awareness of the Nagoya Protocol.

VI. CONCLUSIONS

74. Since the adoption of the Nagoya Protocol and the Strategic Plan for Biodiversity in 2010, a number of steps have been taken by Parties to the Convention to achieve Target 16 and make progress towards the ratification and operationalization of the Protocol.

75. The entry into force of the Protocol on 12 October 2014 marked the achievement of the first part of Target 16; and as of 9 September 2016, 85 Parties to the Convention had deposited their instrument of ratification, acceptance, approval or accession to the Protocol. The number of Parties to the Protocol is expected to continue to increase in the coming months. As of 9 September 2016, based on information available to the Secretariat, at least 35 countries had taken steps towards ratification and 30 were planning to ratify.

76. Most Parties to the Nagoya Protocol are still in the process of establishing ABS measures. According to information gathered, 20 Parties have already adopted at least one ABS measure, 32 Parties are currently in the process of developing and reviewing ABS measures with a view to implementing the Protocol, and another 27 are planning to establish the necessary measures. A total of 32 Parties have established one or more CNAs and 12 Parties have designated one or more checkpoints to implement the Protocol.

77. In addition, information available indicates that non-Parties, as part of their process towards ratification, are also taking steps to implement the Protocol: 6 non-Parties have established ABS measures following the adoption of the Protocol and 28 are currently working towards this goal. In addition, 43 non-Parties have indicated that they are planning to develop ABS measures to implement the Protocol.

78. While significant progress has been made, further efforts are still needed to make the Protocol operational. For instance, some information on national developments has not yet been published in the ABS Clearing-House.⁴³ In addition to establishing relevant measures and institutional structures for the implementation of the Protocol, the Protocol requires that Parties make this information available through the ABS Clearing-House. Non-Parties are also encouraged to do the same in order to facilitate the exchange of information on ABS. The Secretariat is available to provide technical support, as needed, to publish relevant information.

79. Finally, although a number of capacity-building and development initiatives are currently supporting ratification and implementation of the Nagoya Protocol,⁴⁴ many Parties and non-Parties still lack the necessary capacity and financial resources to make the Protocol operational.

⁴³ As of 9 September 2016, 37.6 per cent of Parties have published national information in the ABS Clearing-House (CNAs, checkpoints, and/or ABS measures). According to the information made available to the Secretariat: 18.8 per cent of Parties have published all their available national information in the ABS Clearing-House. 10.6 Per cent of Parties have published some of the national information available but not all, and 20.0 per cent of Parties have not published any of their available national information. For a number of Parties there is no information available on whether they have established CNAs, checkpoints, or ABS measures that could be published in the ABS Clearing-House.

⁴⁴ For more information on capacity-building initiatives and resources see the report on progress on the implementation of the strategic framework for capacity-building and development for the Nagoya Protocol (UNEP/CBD/NP/COP-MOP/2/8).

VII. DRAFT DECISIONS FOR CONSIDERATION BY THE CONFERENCE OF THE PARTIES AND THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE NAGOYA PROTOCOL

80. The Conference of the Parties may wish to take into account the additional developments related to ratification and implementation of the Protocol when considering paragraph 5 of recommendation 1/2 of the Subsidiary Body on Implementation as contained in the compilation of draft decision (UNEP/CBD/COP/13/2).

81. Similarly, the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol may wish to take into account the information contained in the present document when considering the following draft decision, as contained in paragraph 4 of recommendation 1/2 of the Subsidiary Body on Implementation:

The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,

1. *Urges* Parties to the Nagoya Protocol to take further steps towards the effective implementation of the Nagoya Protocol, including by establishing institutional structures and legislative, administrative or policy measures for implementing the Nagoya Protocol and, without prejudice to the protection of confidential information, to make all relevant information available to the Access and Benefit-sharing Clearing-House, in accordance with the Protocol;

2. *Reiterates* the need for capacity-building and development activities, including technical training and support, as for example provided by the ABS Capacity Development Initiative, as well as financial resources to support the implementation of the Nagoya Protocol in accordance with decision NP-1/8 on measures to assist in capacity-building and capacity development (Article 22), which contains the strategic framework for capacity-building and development to support the effective implementation of the Nagoya Protocol;

3. *Invites* Parties and other Governments to implement the International Treaty on Plant Genetic Resources for Food and Agriculture⁴⁵ and the Nagoya Protocol in a mutually supportive manner, as appropriate.

⁴⁵ United Nations, *Treaty Series*, vol. 2400, No. 43345.