



## Convention on Biological Diversity

Distr.  
GENERAL

UNEP/CBD/SBI/1/3  
29 February 2016

ORIGINAL: ENGLISH

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### SUBSIDIARY BODY ON IMPLEMENTATION

First meeting

Montreal, Canada, 2-6 May 2016

Item 5 of the provisional agenda\*

### **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 (COP) 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 2011-2020 period (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 22 February 2016, 72 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 successfully achieved.
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. More specifically, Parties to the Protocol are to (a) establish institutional structures and (b) develop or revise ABS legislative, administrative or policy measures to implement the Protocol (ABS measures).<sup>1</sup> The present document examines steps taken by Parties to the Nagoya Protocol to ensure that it becomes operational.
5. In addition, the national processes of many countries require them to adopt measures to implement an international treaty prior to its ratification. Considering the importance of ratification and implementation of the Nagoya Protocol by the largest number of Parties to the Convention, the present document also examines the progress of these countries towards ratification and implementation of the Nagoya Protocol.

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\* UNEP/CBD/SBI/1/1/Rev.1.

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

6. With a view to gathering additional information for assessing progress in achieving Aichi Biodiversity Target 16, a notification was sent to Parties and to non-Parties<sup>2</sup> in December 2015 (2015-142 and 2015-141, respectively). As of 12 February 2016, the Executive Secretary had received submissions from the following Parties to the Protocol: Benin; Comoros; Côte d'Ivoire; Croatia; Democratic Republic of the Congo; Denmark; Dominican Republic; Ethiopia; European Union; Hungary; India; Mexico; Niger; Peru; Philippines; South Africa; Spain; Sudan; Switzerland; Togo; United Kingdom of Great Britain and Northern Ireland; and Viet Nam. The Executive Secretary had also received submissions from the following non-Parties to the Protocol: Bangladesh; Belgium; Costa Rica; Germany; Italy; Japan; Serbia; and Swaziland. A compilation of the submissions is available in document UNEP/CBD/SBI/1/INF/7.

7. Against this background, the methodology used in preparing this analysis, 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 access and benefit-sharing measures being established. Section IV provides an overview of progress made by non-Parties in ratifying and implementing the Protocol, including the institutional structures and ABS measures being established. Section V provides information regarding additional steps taken towards the implementation of the Protocol by Parties and non-Parties. Section VI points to the important role of indigenous and local communities and other stakeholders in supporting the implementation of the Protocol. Section VII then provides an overview of the activities carried out by the Secretariat of the Convention to support Parties in achieving Target 16, as well as other 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. Section VIII draws conclusions on progress made in the achievement of Target 16 as well as ratification and implementation of the Nagoya Protocol more generally. Finally, section IX includes draft recommendations for the consideration of the Subsidiary Body on Implementation.

8. The present document complements the analysis of the contribution of national targets established by Parties and progress towards the Aichi Biodiversity Targets (UNEP/CBD/SBI/1/2/Add.2).

## II. METHODOLOGY

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

9. Based on the information available to the Secretariat, as further described below, the following steps towards implementation and operationalization of the 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 (NFP), one or more competent national authorities and one or more checkpoints;

(b) Progress in establishing ABS legislative, administrative or policy measures 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 with a view to implementing the Nagoya Protocol;
- (iii) Countries planning to develop ABS legislative, administrative or policy measures with a view to implementing the Nagoya Protocol;

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<sup>2</sup> For the purpose of this document, the term “non-Parties” refers to Parties to the Convention on Biological Diversity that have not ratified the Nagoya Protocol.

- (iv) Countries that had ABS legislative, administrative or policy measures in place prior to the adoption of the Protocol.

10. 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**

11. In order to assess the progress towards ratification<sup>3</sup> of the Protocol by Parties to the Convention that are not yet Parties to the Protocol (non-Parties), information on the following is presented and analysed:

- (a) Countries with a ratification process under way;
- (b) Countries planning to ratify the Nagoya Protocol.

#### **C. Relevant sources of information**

12. 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 Access and Benefit-sharing Clearing-House (ABS Clearing-House) in accordance with Article 14 of the Protocol;<sup>4</sup>

(b) National biodiversity strategies and action plans (NBSAPs): At COP-10, 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) decision X/2). NBSAPs submitted by countries since COP-10 and until 1 February 2016 (a total of 67)<sup>5</sup> were reviewed and relevant information on the Nagoya Protocol, access and benefit-sharing and/or Target 16 was identified and taken into consideration;

(c) Fifth national reports: In decision X/10, the Conference of the Parties decided that the fifth national reports should focus on the implementation of the Strategic Plan and progress achieved towards the Aichi Targets. All national reports submitted as of 1 February 2016 (a total of 170<sup>6</sup>) have been reviewed and the relevant information on the Nagoya Protocol, access and benefit-sharing and/or Target 16 contained therein has been taken into consideration;

(d) Submissions from Parties and non-Parties received in response to the above mentioned notifications from 2 December 2015.

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

(a) Information gathered by the Secretariat regarding countries that had established ABS legislative, administrative or policy measures in accordance with the ABS provisions of the Convention 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;

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<sup>3</sup> 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.

<sup>4</sup> The ABS Clearing-House was established by Article 14 of the Protocol as a means for sharing information related to ABS. The Protocol provides that Parties are to make available to the ABS Clearing-House: (a) legislative, administrative and policy measures on access and benefit-sharing; (b) information on the national focal points (NFP) and competent national authorities (CNAs); and (c) permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms. Non-Parties to the Protocol are also invited to publish this type of information on the ABS Clearing-House.

<sup>5</sup> The NBSAPS from Hungary, Latvia and Poland were not reviewed due to not having been submitted in one of the six official United Nations languages. For further information on the list of NBSAPS submitted to the Secretariat, see: <https://www.cbd.int/nbsap/>.

<sup>6</sup> For further information on the list of fifth national reports submitted see: <https://www.cbd.int/reports/nr5/>.

(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) Capacity-building and development projects and initiatives to support the effective implementation of the Nagoya Protocol: Projects aimed at building capacity to develop, implement and enforce domestic legislative, administrative or policy measures on ABS were taken into consideration as they provide an indication of countries that are planning to develop ABS measures.<sup>7</sup>

### **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*

14. As of 12 February 2016, 68 Parties to the Nagoya Protocol had designated a national focal point for access and benefit-sharing (94% of the Parties).<sup>8</sup>

##### *2. Competent national authorities (CNA)*

15. As of 12 February 2016, 22 Parties (31% of the Parties) had established one or more CNAs out of which fifteen Parties have submitted this information through the ABS Clearing-House (see table 1).

16. Four Parties had established a CNA prior to the adoption of the Nagoya Protocol but have not submitted any updated information to the ABS Clearing-House, therefore it is unclear whether some of these countries will establish different CNAs for the implementation of the Protocol. In their submissions, two additional Parties reported to have designated a CNA but the publication of this information in the ABS Clearing-House is still pending.

**Table 1. Parties with CNA established as of 12 February 2016**

	<b>CNA in the ABS Clearing-House</b>	<b>CNA prior to the Nagoya Protocol but not in the ABS Clearing-House</b>	<b>CNA reported in the submission but not in the ABS Clearing-House</b>	<b>Total CNAs in place</b>
<b>Number of Parties</b>	16	4	2	22
<b>Percent of all Parties</b>	22%	6%	3%	31%

17. Further information provided to the ABS Clearing-House and in the submissions reveals that 12 Parties have designated a single CNA for the Protocol (Comoros, Croatia, Denmark, Dominican Republic, Gambia, Guinea Bissau, Hungary, India, Malawi, Norway, South Africa, Switzerland). In seven Parties the NFP also fulfills the role of the CNA (Comoros, Gambia, Guinea Bissau, Malawi, Norway, South Africa, and Switzerland).

18. Other Parties have designated more than one CNA for the Protocol (Belarus, Cambodia, Mexico, Peru, Syrian Republic, and Viet Nam). For example Mexico has designated a total of five CNAs which

<sup>7</sup> See document UNEP/CBD/ABS/CB-IAC/2015/1/2 on Status and Scope of Capacity-Building and Development Initiatives Supporting the Implementation of the Nagoya Protocol on Access and Benefit Sharing prepared for the consideration of the Informal Advisory Committee on Capacity-Building for the implementation of the Nagoya Protocol held in Montreal, Canada from 15 - 17 September 2015. Projects addressing key area 2 of the Strategic Framework for capacity-building and development (decision NP-1/8) were identified and their information was taken into account to determine which countries are planning to develop ABS measures.

<sup>8</sup> See the ABS Clearing-House ([www.absch.cbd.int](http://www.absch.cbd.int)).

are relevant for granting access to different types of genetic resources and/or associated traditional knowledge.

19. In their submissions Benin, Cote d'Ivoire, Niger, and Spain reported on progress made to designate one or more CNAs.

### 3. *Checkpoints*

20. As of 12 February 2016, according to the information included in the ABS Clearing-House and in the submissions, six Parties have designated one or more checkpoints (Belarus, Croatia, Denmark, Peru, South Africa and Switzerland) with a view to implementing Article 17 of the Protocol. Some Parties have designated the CNA also to serve as a checkpoint (Belarus, Croatia, Denmark, Peru, Switzerland and South Africa).

21. The following provides some examples of information on checkpoints:

(a) Peru has designated two checkpoints: the office in charge of patents (INDECOPI) and the National Commission against Biopiracy. Furthermore, the need to designate additional checkpoints is under discussions in the country's interinstitutional coordination meetings. Additional checkpoints being considered are institutions responsible for sanitary control, commercialization, border control and/or promotion of research;

(b) South Africa has identified the following checkpoints: (i) the National Department of Environmental Affairs (also the CNA); (ii) the Companies and Intellectual Property Commissions (Department of Trade and Industry), which administers the Patent Amendment Act, 2005 requiring mandatory disclosure for permits and mutually agreed terms; and (iii) the National Indigenous Knowledge Systems Office (Department of Science and Technology) will also act as a checkpoint once an electronic record system of traditional knowledge associated with genetic resources is finalized;

(c) Switzerland: The Federal Office for the Environment (FOEN) acts as a centralized checkpoint. Those utilizing genetic resources or directly benefiting from their utilization must notify compliance with the due diligence requirement to FOEN before market authorization has been obtained or, if such authorization is not required, before the commercialization of products developed on the basis of utilized genetic resources. In addition, the Swiss Federal Institute of Intellectual Property is the federal agency for matters concerning intellectual property in Switzerland. It is responsible for the implementation of the disclosure of source requirement for genetic resources and/or traditional knowledge in patent applications.

22. In its submission, Mexico reported on progress made to designate one or more checkpoints along the value chain which is to be officialized through intersectoral agreements and based on collaboration. Viet Nam also reported on progress to establish one or more checkpoints.

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

23. Some Parties have provided information in their submissions on other institutional structures established to implement the Protocol:

(a) The Biological Diversity Act of India is implemented through a three-tier institutional mechanism: A National Biodiversity Authority at the national level; State Biodiversity Boards at the provincial State Government level; and Biodiversity Management Committees to be set up by the elected bodies at the local level;

(b) Peru has established a platform for interinstitutional coordination, led by the NFP, and involving all institutions with ABS related competences. The platform has contributed to joint and harmonized implementation and decision-making for planning activities to manage access, compliance, monitoring, benefit-sharing, capacity-building, and the development of administrative measures and the ABS Clearing-House;

(c) South Africa has established a Bioprospecting Advisory Committee to conduct technical evaluation on permit applications and provide recommendations to the Minister of Environmental Affairs for a final decision.

24. In order to make information available to the ABS Clearing-House, 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 all information made available is complete, non-confidential, relevant and up-to-date (decision NP-1/2, annex, para. 5). As of 22 February 2016, the Executive Secretary has received designations of publishing authorities from 53 Parties to the Protocol (74% of the Parties).

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

25. Following the methodology described in section II above, available information from Parties has been organised 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.

26. Figure 1 below provides an overview of progress by Parties to the Protocol in establishing domestic ABS measures as of 12 of February 2016.

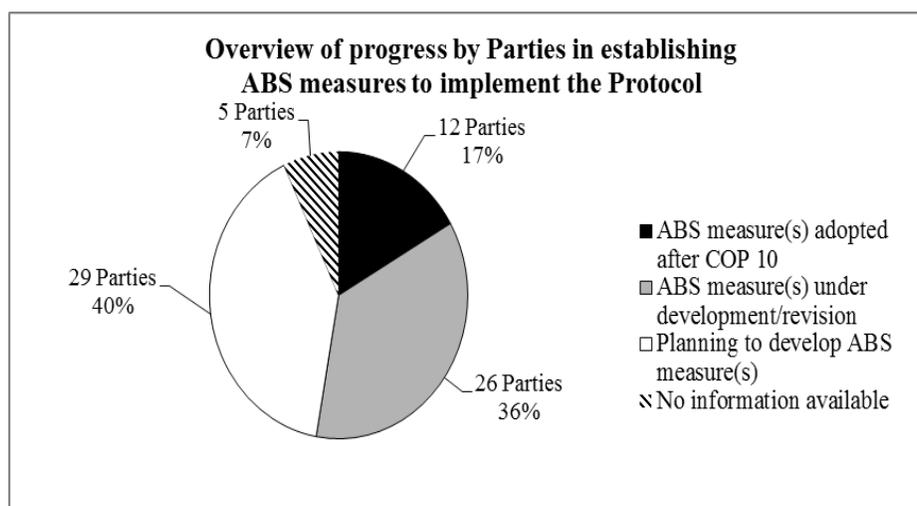


Figure 1. **Overview of progress by Parties in establishing ABS measures to implement the Protocol as of 12 February 2016**

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

27. Available information shows that 17% of the Parties (12 Parties) have established one or more ABS measure(s) to implement the Nagoya Protocol: Six from the Western Europe and Others Group (WEOG), three from the Central and Eastern European (CEE) region, one from the Asia-Pacific region, one from Africa and one from the group of Latin America and the Caribbean countries (GRULAC).

28. 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.

29. The European Union adopted the “REGULATION (EU) No 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”. The Regulation establishes rules governing compliance with access and benefit-sharing for genetic resources and traditional knowledge associated with genetic resources in accordance with the provisions of the Nagoya Protocol and applies to all EU Member States. The Regulation is complemented

by the Commission Implementing Regulation (EU) 2015/1866 of 13 October 2015 as regards the register of collections, monitoring user compliance and best practices.<sup>9</sup>

30. Some EU Member States have adopted measures to implement the EU Regulation and address the compliance aspects of the Nagoya Protocol (for example, Denmark, Hungary and the United Kingdom). The Regulation does not establish access rules at EU level, however EU Member States may decide to establish access rules through national measures.

31. Information provided in the submissions indicates that some Parties have reviewed their general biodiversity/environmental law after COP-10 to include ABS provisions, and are planning to adopt more detailed ABS measures, such as regulations, to implement the Nagoya Protocol. For example:

(a) The Nature Protection Act of Croatia, which entered into force in July 2013 includes relevant ABS provisions.<sup>10</sup> However, Croatia is working towards having a full ABS legislative framework by the end of 2016;

(b) The Dominican Republic adopted a Sectoral Biodiversity Law (333-15) in 2015, which serves as a legal basis for the development of a regulation on access to genetic resources and benefit-sharing during 2016;<sup>11</sup>

(c) Spain adopted Law 33/2015, of 21 September, which introduces modifications to the existing Law on Natural Heritage and Biodiversity (Law 42/2007) with a view to implement the Nagoya Protocol provisions and the above mentioned EU Regulation. Work is also under way to approve a regulation in the following months that will establish the competent national authorities as well as the procedures for access and implement the EU regulation on compliance.

32. Some countries that had ABS measures in place prior to COP-10 have developed additional measures in line with the Nagoya Protocol. For example, India adopted the recent notification “Guidelines on Access to Biological Resources and Associated Knowledge and Benefit-sharing Regulations, 2014” under the Biological Diversity Act of 2002.<sup>12</sup>

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

33. Available information shows that 36% of the Parties (26 countries) are currently developing or revising ABS measure(s): 13 from Africa, 8 from the Asia-Pacific region, and 5 from GRULAC.

34. A number of countries (Côte d’Ivoire, Ethiopia, Mexico, Peru, Philippines, South Africa, Sudan and Viet Nam) provided information in their submissions on the processes under way for developing or reviewing ABS measures with a view to implementing the Protocol. Examples include the following:

(a) Côte d’Ivoire is working on the adoption of an ABS law, and to this end, the country has carried out working sessions as well as awareness-raising and capacity-building workshops with different stakeholders and national actors;

(b) The Philippines has done an assessment of the existing ABS policy. The assessment included stakeholder consultations and identified areas that need to be amended with a view to implementing the Protocol. The draft ABS policy that resulted from this process is currently filed at the

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<sup>9</sup> Further information can be found in the ABS Clearing-House and in the compilation document. UNEP/CBD/SBI/1/2/Add.2.

<sup>10</sup> The text of the measure can be found in the ABS Clearing-House.

<sup>11</sup> The text of the measure can be found at the following link: <http://www.cbd.int/abs/submissions/Aichi16/Dominicanrepublic-law333-15-en.pdf>.

<sup>12</sup> The text of the measure can be found in the ABS Clearing-House.

Philippines' House of Representatives.<sup>13</sup> An ABS action plan for 2015-2028 has also been incorporated into the country's NBSAP;

(c) Peru had ABS legislation prior to the adoption of the Nagoya Protocol and is currently working on the review of Law No 28216 on the protection of access to biological diversity and the collective knowledge of indigenous peoples, as well as Law No 27811 on the protection of collective knowledge associated with genetic resources of indigenous peoples. Peru is also working on the development of administrative measures for implementing access to genetic resources and monitoring their utilization. In this regard, a proposal for a model ABS system has been developed, which includes intervention protocols for authorities and key actors in relation to access; guidelines for managing access contracts; guidelines for managing the National Integral Mechanism of Supervision and Monitoring of Genetic Resources; and a user's guide;

(d) South Africa has an ABS measure in place which was adopted prior to COP-10: The National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004). In 2015, the Department of Environmental Affairs initiated stakeholder consultation towards its revision. The revision is anticipated to be completed by 2019;

(e) Mexico established an inter-secretarial group to analyse and determine the best manner to implement the Protocol. As a result, a draft law is currently under review by the legal department of the Secretariat of Environment and Natural Resources for its further review by other legal departments of the inter-secretarial group;

(f) Viet Nam plans to implement a national ABS framework, including a governmental decree, with circulars and guidelines to support its implementation. A new Governmental Decree on ABS is being scheduled for submission to the Government in 2016.

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

35. Available information shows that 40 per cent of the Parties (29 countries) are planning to develop ABS measure(s) to implement the Protocol: 15 from Africa, 9 from the Asia-Pacific region, 3 from GRULAC, and 2 from the CEE region.

36. In their submission, Niger explained that it has conducted several studies with a view to putting ABS measures in place, including the development of a ABS national strategy. In addition, two preliminary studies on traditional knowledge and the Nagoya Protocol were conducted by national non-governmental organizations.

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

37. Available information shows that 25 Parties had ABS measures in place before the adoption of the Nagoya Protocol. Three already revised at least one of the existing measures (these are included in subsection 1 above), and eleven Parties are currently revising one or more of their measures in order to be in line with the Nagoya Protocol (included in subsection 2 above).

38. However, in other countries with ABS measures in place prior to the Nagoya Protocol, it is unclear, based on the information available, whether they are planning or are in the process of revising the existing ABS measures in accordance with the Protocol. Some of the ABS measures adopted prior to the Protocol may still be applicable; making such information available to the ABS Clearing-House can provide clarity about their status.

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<sup>13</sup> The full draft ABS policy can be found at the following link: <https://www.cbd.int/abs/submissions/Aichi16/Philippines-annexB-en.pdf>

### C. Other actions taken to implement the Protocol

39. 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:

(a) India, in its submission, reported progress on issuing permits or their equivalent and on the constitution of the internationally recognized certificate of compliance. India's CNA had entered into 220 benefit-sharing agreements and indigenous and local communities have started receiving the sharing of benefits. India is the first country to have made available information on a permit to the ABS Clearing-House and constituted the first internationally recognized certificate of compliance. The constitution of the first certificate represents a major step towards making the Nagoya Protocol operational;

(b) Peru, in its submission, explained that the country is working on developing an online system for managing requests for access and for monitoring the status of such requests by users and provided some details on how the utilization of genetic resources is monitored. Peru, through the National Commission against Biopiracy, identifies and monitors patent requests around the world and currently follows up on 35 biological resources and associated traditional knowledge that have been identified by the country as a priority. Until now the Commission has invalidated the granting of six patents related to Peruvian resources. Peru also has a register of traditional knowledge which includes 2944 records. The information included in this register can assist in identifying cases of misappropriation of traditional knowledge associated with genetic resources.

40. In their submissions, Parties also identified a number of additional actions and steps taken to implement the Protocol. For example, some countries, recognising 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:

(a) Denmark has a national stakeholder forum and, in partnership with the ABS Capacity Development Initiative, has hosted four international business dialogue meetings;

(b) South Africa launched a National Bioprospecting Forum for effective communication with all relevant stakeholders and indigenous and local communities in the implementation of the Protocol;

(c) The United Kingdom conducted a study "UK Patent Activity for Genetic Resources and Associated Traditional Knowledge" which presents the results of a review of patent documents from the United Kingdom of relevance to the Protocol in order to identify clusters of research and development activity involving genetic resources and traditional knowledge;

(d) Ethiopia, Philippines and Tajikistan have translated the Protocol into local languages and made them available to the Secretariat.<sup>14</sup>

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

41. This section provides an overview of progress made by Parties to the Convention that are not yet Parties to the Protocol (non-Parties) towards ratification and implementation of the Protocol.

42. 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 examined below.

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<sup>14</sup> All courtesy translations of the Protocol are available at: <https://www.cbd.int/abs/awareness-raising/courtesy.shtml>.

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

43. With regard to progress towards ratification by the 124 non-Parties, figure 2 below shows that, as of 22 February 2016, the process of ratification is under way for 35 per cent of the non-Parties (43 countries) and that 19 per cent of the non-Parties (23 countries) are planning to ratify. For 47 per cent of the non-Parties (58 countries), there is no information available regarding progress towards ratification.

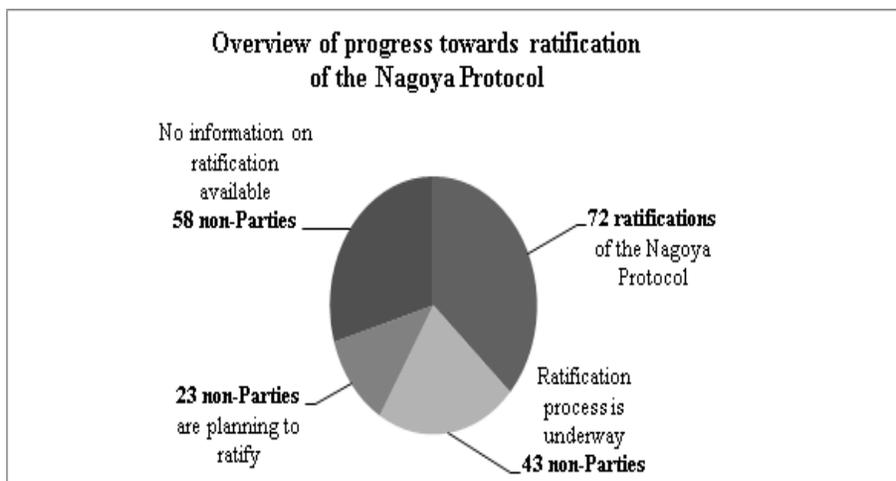


Figure 2. Overview of progress towards ratification of the Nagoya Protocol as of 22 February 2016

44. The status of progress towards ratification of the Protocol grouped by the different United Nations regions is presented in figure 3 below as of 22 February 2016.

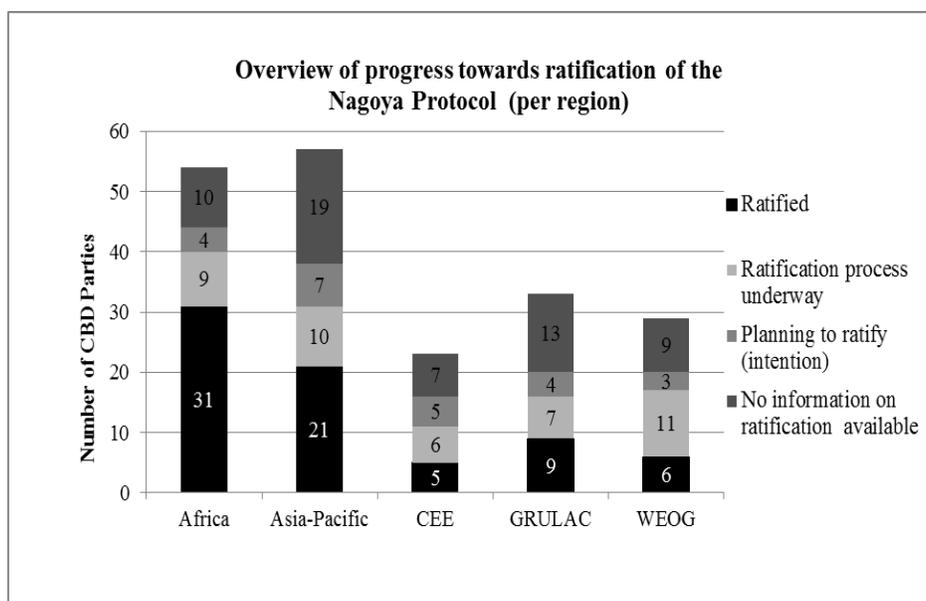


Figure 3. Overview of progress towards ratification of the Nagoya Protocol per region as of 22 February 2016

45. In their submissions, Belgium, Italy, Serbia and Swaziland provided further information on progress made towards ratifying the Protocol and indicated that they are very close to finalizing their national processes and depositing their instrument of ratification or accession to the Nagoya Protocol. Costa Rica and Japan also provided details on the process under way towards ratification.

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

*1. National focal points*

46. As of 12 February 2016, 101 of 124 non-Parties to the Protocol had designated a national focal point for access and benefit-sharing.

*2. Competent national authorities*

47. Overall, as shown in table 2, as of 12 February 2016, 25 non-Parties (20% of the non-Parties) have established one or more CNAs. Four of these countries have made this information available to the ABS Clearing-House. Nineteen non-Parties had established a CNA prior to the adoption of the Nagoya Protocol but it is not clear whether these will also be CNAs under the Nagoya Protocol. In their submissions, two countries reported to have designated a CNA but their publication in the ABS Clearing-House is still pending.

**Table 2. Non-Parties with CNA established as of 12 February 2016**

	<b>CNA in the ABS Clearing-House</b>	<b>CNA reported in the submission but not in the ABS Clearing-House</b>	<b>CNA prior to the Nagoya Protocol</b>	<b>Total CNAs in place</b>
Number of non-Parties	4	2	19	25
Percentage of all non-Parties	3%	2%	15%	20%

48. An example of collaboration between the CNA and other institutions was provided by Germany in its submission. Germany has designated one CNA (Federal Agency for Nature Conservation) which will collaborate with the Federal Agency for Agriculture and Food regarding genetic resources for food and agriculture and with the Robert-Koch-Institute with respect to human pathogens.

*3. Checkpoints*

49. In its submission, Germany explained that the German Patent and Trade Mark Office will serve as a checkpoint and will collect relevant information from patent applications and forward them to the CNA. The information on the checkpoint has not yet been published in the ABS Clearing-House.

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

50. 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 all information made available is complete, non-confidential, relevant and up-to-date (decision NP-1/2, annex, para. 5). As of 22 February 2016, the Executive Secretary has received 21 designations of publishing authorities from non-Parties to the Protocol (17 % of the non-Parties).

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

51. 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.

52. Figure 4 provides an overview of progress, as of 12 February 2016, in establishing domestic ABS measures to implement the Protocol in 124 Parties to the Convention that are non-Parties to the Nagoya Protocol.

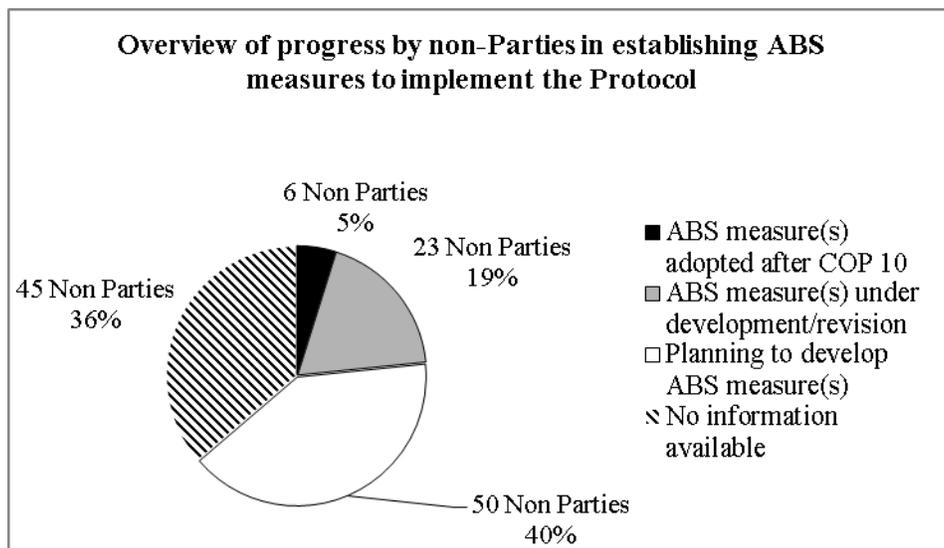


Figure 4. **Overview of progress by non-Parties in establishing domestic ABS measures to implement the Protocol, as of 12 February 2016**

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

53. Available information shows that six non-Parties have adopted one or more ABS measure(s) after COP-10: three from GRULAC, one from the Asia-Pacific region, one from Africa, and one from WEOG.

54. Germany provided further information in its submissions. The German Parliament adopted implementation legislation addressing the obligations under the Nagoya Protocol as well as the EU Regulation on 15 October 2015. The legislation focuses on user compliance measures as Germany has decided not to require PIC and MAT for access to genetic resources in Germany.

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

55. Available information shows that 19 per cent of the non-Parties (23 countries) are currently developing new measures or revising existing ABS measures(s): seven from WEOG, six from the Asia-Pacific region, four from Africa, three from CEE, and three from GRULAC.

56. Further information was provided in the submissions:

- (a) Bangladesh has a draft Biological Diversity Act to be passed as a bill by the Parliament;
- (b) Costa Rica had ABS measures in place prior to COP-10 and is currently working on a draft regulation on administrative sanctions for non-authorized access to biochemical and genetic resources and on a proposal on sui generis rights regarding the protection of traditional knowledge and associated intangible elements;
- (c) Italy has a draft law including measures on access and compliance. The text is currently under examination and it will be presented to Parliament, probably in 2016;
- (d) Swaziland is reviewing a draft ABS Bill formulated in 2007. To this end a National ABS Steering Committee has been established, and a situation analysis on ABS issues was also undertaken. Administrative guidelines to implement the Protocol are under development, which will also inform the Draft Bill.

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

57. Based on information available, 40 per cent of the non-Parties (50 countries) are planning to develop ABS measure(s): 13 from Africa, 12 from the Asia-Pacific region, 12 from GRULAC, 7 from CEE and 6 from WEOG.

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

58. According to available information, 22 non-Parties had ABS measures in place before the adoption of the Nagoya Protocol. One of these have already revised at least one of the existing measures (these are included in subsection 1 above), and three of these are currently revising one or more of their measures in order to implement the Nagoya Protocol and these are included in subsection 2 above. However, for the other eighteen it is unclear, based on information available to the Secretariat, whether they are planning or are in the process of revising existing ABS measures in accordance with the Protocol. Some of the ABS measures adopted prior to the Protocol may still be applicable; making such information available to the ABS Clearing-House can provide clarity about their status.

**D. Other actions taken towards implementation of the Protocol**

59. Some non-Parties have gone beyond the establishment of measures and have reported on steps taken in the implementation of their national framework. For example, Costa Rica, in its submission, reported on progress made on the issuance of permits or their equivalent and on monitoring the utilization of genetic resources:

(a) Between January 2014 and January 2016, Costa Rica granted 431 permits for access to genetic and biochemical resources of biodiversity and 324 contracts of prior informed consent have been signed. Eighty-eight per cent of the total permits were granted for basic research and the 12 per cent were granted for bioprospecting projects. Costa Rica is also working on developing an online system to facilitate access to information and speed up the process of requesting permits for access;

(b) The technical office of CONAGEBIO carries out monitoring and control activities after an access permit has been granted. Activities include site visits to projects to verify that the conditions for access included in the terms of the permit are respected (species, place of collection, methodology used, etc.) and periodic review of intellectual property and genomic databases and scientific journals to detect any unauthorized access.

60. Some non-Parties, in their submissions, provided information on additional actions or steps taken towards implementation of the Protocol. For example, some countries, recognising 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 implementation:

(a) Swaziland has developed an awareness-raising strategy and ABS training and awareness toolkits for stakeholders;

(b) Costa Rica has initiated two pilot projects for participatory processes and consultations with indigenous and local communities with a view to complying with the Biodiversity Law. The results of these projects will serve as a basis for establishing the participatory process at the national level and inform the legal requirements;

(c) Argentina, Brazil, Bulgaria, Germany, Morocco, the Netherlands, Poland, the Republic of Korea and the former Yugoslav Republic of Macedonia have translated the Protocol into local languages and made the translations available to the Secretariat;<sup>15</sup>

## **V. ADDITIONAL STEPS TAKEN TO IMPLEMENT THE PROTOCOL BY PARTIES AND NON-PARTIES**

61. In addition to establishing institutional structures and ABS measures for implementing the Nagoya Protocol, Parties and non-Parties are taking a number of steps to support effective implementation of the Protocol. This section provides information and some examples of additional steps taken by Parties and non-Parties towards implementing the Protocol.

### **A. Regional and subregional ABS measures and approaches**

62. Some countries have developed regional approaches to ABS after the adoption of the Nagoya Protocol. For instance, in 2015, the African Union adopted Practical Guidelines for the Coordinated Implementation of the Nagoya Protocol in Africa and Strategic Guidelines for the Coordinated Implementation of the Nagoya Protocol. In addition, a regional strategy for the Central African Forest Commission (COMIFAC) was adopted in 2011. Other countries had adopted ABS regional approaches before COP-10<sup>16</sup> that may still be relevant for the implementation of the Protocol.

### **B. Capacity-building and awareness-raising activities and participatory approaches to support the ratification and implementation of the Protocol**

63. Since the adoption of the Nagoya Protocol in 2010, a number of access and benefit-sharing capacity-building and development initiatives (activities, projects and programmes) have been initiated or implemented to support the ratification and implementation of the Protocol. Some of the initiatives have provided or are providing direct support at the country-level. Other initiatives are supporting global or region-wide activities (such as training, information-sharing or development of capacity-building tools and resources), meant to broadly support or benefit governments and other stakeholders.

64. Available information on capacity-building and development projects and initiatives was compiled for the consideration of the first meeting of the Informal Advisory Committee on Capacity-Building for the implementation of the Nagoya Protocol held in September 2015. The document prepared for the meeting (UNEP/CBD/ABS/CB-IAC/1/2) includes information on capacity-building initiatives (activities, projects and programmes) completed or initiated after the adoption of the Nagoya Protocol in 2010, particularly those that are providing, or have provided, direct support for country-level activities contributing to the ratification and implementation of the Nagoya Protocol.

65. According to the information gathered, since 2010 at least 67 ABS capacity-building and development initiatives (projects and programmes) have directly supported the ratification and implementation of the Nagoya Protocol. Of these, 10 projects (15%) have been completed; 39 projects (58%) are ongoing, 14 projects (21%) are approved, and 4 (6%) are proposed.

66. Work is under way to make information on various capacity-building and development initiatives available through the ABS Clearing-House.

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<sup>15</sup> All courtesy translations of the Protocol are available at <https://www.cbd.int/abs/awareness-raising/courtesy.shtml>

<sup>16</sup> 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.

## **VI. STEPS TAKEN BY INDIGENOUS AND LOCAL COMMUNITIES AND RELEVANT STAKEHOLDERS TOWARDS THE IMPLEMENTATION OF THE PROTOCOL**

67. Although the present document focuses on assessing progress made by Parties and non-Parties in the achievement of Target 16, indigenous and local communities and relevant stakeholders, such as the business and scientific communities, have a key role to play in the implementation of the Protocol.

68. 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. Support provided by the Secretariat is mentioned below in section VII and further described in document UNEP/CBD/SBI/1/INF/1. 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 access and benefit-sharing available on the ABS Clearing-House.

69. 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 website<sup>17</sup> and can be made available on the ABS Clearing-House. Some organisations are also carrying out awareness-raising and capacity-building activities in support of the Nagoya Protocol. Some examples of initiatives include 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;<sup>18</sup>

(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 the Protocol, and Articles 8 and 13 of the EU 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 also includes a 'Statement of Use of Biological Material' to provide clarity on how CETAF members use and treat samples of biological material;<sup>19</sup>

(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.<sup>20</sup>

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<sup>17</sup> 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>

<sup>18</sup> For more information please see <https://www.bgci.org/policy/abs/>

<sup>19</sup> The code of conduct is available at <https://www.cbd.int/abs/instruments/default.shtml>

<sup>20</sup> For more information please see <http://ethicalbiotrade.org/resources/#7>

## VII. PROGRESS REGARDING INTERSESSIONAL ACTIVITIES CARRIED OUT BY THE SECRETARIAT

### A. Activities in support of the achievement of Aichi Biodiversity Target 16 since COP-MOP-1

70. Since the adoption of the Nagoya Protocol in 2010, the Secretariat has been providing continued support to Parties to the CBD and to the Nagoya Protocol to achieve Target 16.<sup>21</sup>

71. The Secretariat also follows up with the CBD and ABS NFPs and other national contacts on a regular basis to seek information on progress towards ratification and implementation processes and provides support, as appropriate.

72. The following provides an overview of the main activities carried out by the Secretariat since COP-MOP-1 to provide support to Parties and non-Parties to achieve Target 16.

#### 1. *Activities to build the capacity to ratify and implement the Nagoya Protocol*

73. With the support of the Japan Biodiversity Fund, the Secretariat is currently working on the development of two e-learning modules, respectively on access and benefit-sharing and on support for ratification of the Nagoya Protocol.

74. Furthermore, with additional support from the Japan Biodiversity Fund, the International Development Law Organization (IDLO) and the Secretariat are developing e-learning materials and will conduct four training courses to build the capacity of lawyers and policy officers actively involved in designing and implementing domestic frameworks or advising on national processes to implement the Nagoya Protocol.<sup>22</sup>

75. The e-learning modules being developed cover key elements that need to be considered by countries when designing relevant ABS legislative, policy and administrative measures to implement the Protocol: (a) defining national ABS strategies/policies; (b) indicative steps of ABS legal reform; (c) institutional arrangements for the implementation of the Protocol; (d) access requirements and procedures for obtaining prior informed consent; (e) the rules for fair and equitable benefit-sharing, and defining mutually agreed terms; (f) traditional knowledge, and associated rules for access and benefit sharing; (g) monitoring and compliance mechanisms; and (h) complementary measures that can support the successful implementation of ABS legal measures.

76. The courses will have an e-learning component as well as face-to-face workshops. They will introduce participants to the core requirements of the Nagoya Protocol, key considerations for the design and implementation of ABS frameworks, and options available based on country experiences and lessons learned. An online networking and discussion forum will also be established with a view to facilitate networking and peer-to-peer exchanges.

#### 2. *Activities to raise awareness of the importance of access and benefit-sharing and the Nagoya Protocol*<sup>23</sup>

77. COP-MOP 1 adopted an awareness-raising strategy for the Nagoya Protocol in its decision NP-1/9. The Secretariat, with the support of the Japan Biodiversity Fund, is supporting awareness-raising by Parties through the creation of a toolkit containing methodologies, templates and descriptive materials

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<sup>21</sup> See annex I of document UNEP/CBD/ABS/CB-IAC/1/2 for a list of capacity-building activities organized by the Secretariat since 2010.

<sup>22</sup> More information on the course is available at <http://www.idlo.int/what-we-do/initiatives/advancing-nagoya-protocol>.

<sup>23</sup> Awareness-raising material developed by the Secretariat includes: (a) factsheets on the ABS, the Nagoya Protocol, and on how to become a Party to the Nagoya Protocol; (b) the ABS information kit; and (c) policy briefs on the Nagoya Protocol: Bioscience at a crossroads, which provide an overview of the types of ABS-related activities carried out in different sectors (i.e. pharmaceuticals, agriculture, industrial biotech, cosmetics, botanicals and food and beverage) as well as an analysis of the relevance and impact of the Nagoya Protocol for these sectors in light of recent trends and practices. All materials are available in the ABS Clearing-House and at <https://www.cbd.int/abs/awareness-raising/>.

for training communicators and for the development of national awareness-raising strategies, materials and tools.

3. *Activities to support the implementation of the Nagoya Protocol and the International Treaty of Plant Genetic Resources for Food and Agriculture (ITPGRFA) in a mutually supportive manner*

78. In the context of Memorandum of Cooperation between the Secretariat of the Convention and the Secretariat of the ITPGRFA and the joint initiative signed at the margins of the United Nations Conference on Sustainable Development (Rio+20) in 2012, a number of activities are currently under way to support implementation of the two instruments in a mutually supportive manner. These activities include workshops with teams of national policy actors, including the focal points of both the Protocol and the Treaty, to improve coordinated implementation at the national level; the development of awareness-raising materials on mutually supportive implementation; and a pilot project with Benin and Madagascar to develop and operationalise ABS measures that implement the Protocol and the Treaty in a coordinated manner. These activities are being carried out with a number of partners including the ITPGRFA Secretariat, Bioversity International, the ABS Capacity Development Initiative and the African Union Commission.

4. *Activities to support capacity regarding indigenous and local communities and the Nagoya Protocol*

79. The Secretariat, in collaboration with partners, and thanks to the financial support of the Japan Biodiversity Fund, is implementing train-the-trainers programmes for indigenous and local communities and government representatives from CBD Parties and, one of the components is community protocols on traditional knowledge, including traditional knowledge associated with genetic resources under the Nagoya Protocol. This initiative includes one international and five regional workshops and will provide support to trainers for conducting 20 national and subnational workshops.<sup>24</sup>

5. *Activities to support the ABS Clearing-House*

80. The ABS Clearing-House established by Article 14 of the Nagoya Protocol is a central component of the Protocol<sup>25</sup>. Parties to the Protocol have the obligation to make certain types of information available to the ABS Clearing-House, and non-Parties are also encouraged to contribute to the ABS Clearing-House.

81. With a view to encouraging participation in the ABS Clearing-House, since 2014, and with the support of the Japan Biodiversity Fund and the European Union, the Secretariat has been carrying out an outreach and engagement strategy which includes:

- (a) Providing technical support to Parties and non-Parties to designate their publishing authority;
- (b) Encouraging the submission by Parties of information required in accordance with Article 14 of the Protocol, including by building the capacity of the publishing authorities to make existing national information available in the ABS Clearing-House;
- (c) Collecting feedback with a view to assessing needs for training and technical support as well as receiving feedback on the usability of the ABS Clearing-House.

82. More than 120 national focal points were contacted in order to promote participation in the ABS Clearing-House and advance the designation of publishing authorities. As of 23 February 2016, the Executive Secretary has received 74 designations of publishing authorities, 53 of which came from Parties to the Protocol. The Secretariat organized 14 introductory webinars between September 2014 and

<sup>24</sup> More information on capacity-building and development and participation of indigenous peoples and local communities in the work of the Convention is available in document UNEP/CBD/SBI/1/INF/1.

<sup>25</sup> For more information on progress made in the development and implementation of the ABS Clearing-House see document UNEP/CBD/ABS/CH-IAC/2015/1/2.

December 2016 in four languages (English, French, Spanish and Portuguese). The webinars, which benefited 118 participants from 53 countries, were complemented by a help desk. One-on-one trainings are also available to users of the ABS Clearing-House requiring technical assistance. Follow-up and continuous support is ensured through Skype, e-mails and telephone calls.

83. Following the feedback received from Parties and other users, the Secretariat is also working on improving online help on the ABS Clearing-House. An ABS Clearing-House training website (<https://training-absch.cbd.int/>) has been established as a testing and training environment to allow users to register test records in the ABS Clearing-House.

84. With the support of the Japan Biodiversity Fund, the Secretariat is currently developing further capacity-building material on the ABS Clearing-House, including an e-learning module, step by step guides, and other resources and materials.

#### **B. Other intersessional activities carried out in accordance with decisions adopted by the COP-MOP at its first meeting**

85. The following provides an update of intersessional activities to be carried out during this biennium in accordance with decisions of the COP-MOP at its first meeting:

(a) In decision NP-1/2, COP-MOP established an informal advisory committee to assist the Executive Secretary with the implementation of the ABS Clearing-House and to provide technical guidance with respect to the resolution of technical and practical issues arising from the ongoing development of the ABS Clearing-House. The first meeting of the Informal Advisory Committee to the ABS Clearing-House was held in Montreal, Canada, from 28 to 30 October 2015.<sup>26</sup> The second meeting will be held from 20 to 22 June 2016 at a venue to be confirmed;

(b) In decision NP-1/8, COP-MOP established an informal advisory committee (IAC) to provide the Executive Secretary with advice on matters of relevance to the assessment of the effectiveness of the Strategic Framework on capacity-building. The first meeting of the IAC on Capacity-building was held in Montreal, Canada, from 15 to 17 September 2015.<sup>27</sup> The second meeting will be also be from 15 to 17 June 2016 at a venue to be confirmed;

(c) In decision NP-1/10, COP-MOP established a process to advance consideration of Article 10 of the Protocol, including the submission of views and the convening of a meeting of an expert group. The Expert Group Meeting on Article 10 of the Nagoya Protocol was held in Montreal, Canada from 1 to 3 February 2016. The report of the meeting will be considered by the COP-MOP at its second meeting;<sup>28</sup>

(d) In decision NP-1/4, COP-MOP established a Compliance Committee and requested that at least one meeting of the Committee be held before the second meeting of the COP-MOP. The first meeting of the Compliance Committee under the Nagoya Protocol will be held in Montreal at the offices of the Secretariat from 6 to 8 April 2016. The report of the meeting will be made available for the consideration of COP-MOP at its second meeting.<sup>29</sup>

### **VIII. CONCLUSIONS**

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

87. The entry into force of the Protocol on 12 October 2014 marked the achievement of the first part of Target 16; and as of 22 February 2016, 72 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

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<sup>26</sup> The report and documents prepared for the meeting are available at <https://www.cbd.int/doc/?meeting=ABSCH-IAC-01>

<sup>27</sup> The report and documents prepared for the meeting are available at <https://www.cbd.int/doc/?meeting=ABSCBIAC-2015-01>

<sup>28</sup> The report and documents prepared for the meeting are available at <https://www.cbd.int/doc/?meeting=ABS-A10EM-2016-01>

<sup>29</sup> The information on the meeting is available at: <https://www.cbd.int/doc/?meeting=ABSCC-01>

expected to significantly increase by the second meeting of the Parties. As of 12 February, based on information available to the Secretariat, at least 43 countries have taken steps towards ratification and 23 are planning to ratify.

88. Most Parties to the Nagoya Protocol are still in the process of establishing ABS measures. According to information gathered, 12 Parties have already adopted at least one ABS measure, 26 Parties are currently in the process of doing so, and another 29 have planned to establish the necessary measures.

89. In addition, information available indicates that non-Parties, as part of their process towards ratification, are also taking steps to implement the Protocol: six non-Parties have established ABS measures following the adoption of the Protocol and 23 are currently working towards this goal. In addition, 50 countries have indicated that they are planning to develop ABS measures.

90. 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. 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 access and benefit-sharing. The Secretariat is available to provide technical support, as needed, to publish relevant information.

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

## **IX. DRAFT RECOMMENDATIONS**

92. In the light of the above information, the Subsidiary Body on Implementation may wish to:

*Note with appreciation* that first part of Aichi Target 16 has been met, and invite Parties to the Convention on Biological Diversity to deposit their instrument of ratification, acceptance or approval or their instrument of accession at the earliest opportunity with a view to taking part in decision-making at the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

93. The Subsidiary Body on Implementation may wish to recommend that the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol at its second meeting adopt a decision, along the following lines:

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

*Urges* Parties to the Nagoya Protocol to take further steps towards the implementation of the Nagoya Protocol, including by establishing institutional structures and legislative, administrative or policy measures for implementing the Nagoya Protocol, and to make relevant information available to the Access and Benefit-sharing Clearing-House, in accordance with the Protocol, as soon as possible.

94. The Subsidiary Body on Implementation may also wish to recommend that the Conference of the Parties at its thirteenth meeting adopt a decision as follows:

*The Conference of the Parties*

*Invites* Parties to the Convention on Biological Diversity to deposit their instrument of ratification, acceptance or approval or their instrument of accession to the Nagoya Protocol as soon as possible, to take steps towards its implementation, including by establishing institutional structures and legislative, administrative or policy measures on access and benefit-sharing, and to make relevant information available to the Access and Benefit-sharing Clearing-House as soon as possible.

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