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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

Fourth meeting – Part II  
Montreal, Canada, 7-19 December 2022  
Agenda item 13

**ENHANCING IMPLEMENTATION OF THE NAGOYA PROTOCOL IN THE CONTEXT OF  
THE POST-2020 GLOBAL BIODIVERSITY FRAMEWORK**

*Note by the Executive Secretary*

## I. INTRODUCTION

1. In decision [NP-3/15](#), the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol welcomed decision [14/34](#) of the Conference of the Parties on a comprehensive and participatory process for the preparation of the post-2020 global biodiversity framework. It invited Parties to the Protocol to participate in the process for developing the post-2020 global biodiversity framework and encouraged Parties to undertake measures to enhance implementation of the Nagoya Protocol in the context of the framework.
2. In the same decision, the Conference of the Parties serving as the meeting of the Parties to the Protocol also recommended that the outcomes of the first assessment and review of the effectiveness of the Protocol be considered in the development of the post-2020 global biodiversity framework, and requested that the Compliance Committee consider how to support and promote compliance with the Protocol within the post-2020 global biodiversity framework.
3. The present document aims to provide updated information on the post-2020 global biodiversity framework as it relates to the Nagoya Protocol. Section II provides background information on how access and benefit-sharing and the Nagoya Protocol are addressed in the Strategic Plan for Biodiversity 2011-2020 and the 2030 Agenda for Sustainable Development,<sup>2</sup> and also recalls key findings from the first assessment and review of the Protocol. Section III provides a brief progress report on the status of implementation of the Protocol and section IV highlights opportunities to enhance the implementation of the Protocol in the context of the post-2020 global biodiversity framework. Section V contains elements of a draft decision for the consideration of the meeting.

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<sup>1</sup> Reissued on 3 November 2022 with a streamlined version of the draft decision (section V) to avoid a potential lack of coherence with the outcome of negotiations on the global biodiversity framework under COP-15.

<sup>2</sup> See General Assembly resolution [70/1](#) of 25 September 2015 entitled “Transforming our world: the 2030 Agenda for Sustainable Development”.

## II. BACKGROUND

### A. Access and benefit-sharing and the Nagoya Protocol in the Strategic Plan for Biodiversity 2011-2020 and the 2030 Agenda for Sustainable Development<sup>3</sup>

4. In adopting the Strategic Plan for Biodiversity 2011-2020, the Conference of the Parties invited Parties to establish their own national targets, using the Strategic Plan as a flexible framework, taking into account national needs and priorities, while also bearing in mind national contributions to the achievement of the global Aichi Biodiversity Targets. Parties were also urged to review and, as appropriate, update and revise their national biodiversity strategies and action plans (NBSAPs) in line with the Strategic Plan.

5. The Strategic Plan includes Aichi Biodiversity Target 16, which 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”. Aichi Biodiversity Target 16 implies that a sequence of actions should be undertaken by Parties: (a) ratification; (b) putting the necessary legislative, administrative or policy measures and institutional structures in place for implementing the Protocol; and (c) publishing mandatory information in the Access and Benefit-sharing Clearing-House (ABS Clearing-House).

6. The Executive Secretary carried out an analysis comparing the level of ambition and the scope of national and regional targets established in the NBSAPs with the global Aichi Biodiversity Targets.<sup>4</sup> With regard to Aichi Biodiversity Target 16, the analysis revealed that 81 per cent of NBSAPs contained targets related to Target 16. Out of these, 71 per cent were either lower in scope and ambition than Aichi Target 16 or did not address all of its elements, while 28 per cent contained national targets which were similar to the overall scope and level of ambition set out in the Target, or exceeded it (1 per cent). Many of the targets that were set were general and referred to access and benefit-sharing (ABS) broadly.

7. The 2030 Agenda for Sustainable Development includes, under Sustainable Development Goal 15, a target addressing access and benefit-sharing, target 15.6: “Promote fair and equitable sharing of the benefits arising from the utilization of genetic resources and promote appropriate access to such resources, as internationally agreed.” The Secretariat of the Convention on Biological Diversity is the custodian of the related indicator (15.6.1) and collaborates with the International Treaty on Plant Genetic Resources for Food and Agriculture to provide the necessary data to the United Nations Department of Economic and Social Affairs.<sup>5</sup> Access and benefit-sharing and the Nagoya Protocol are also important for the achievement of many of the other Sustainable Development Goals, including Goal 1 (no poverty), Goal 2 (zero hunger), Goal 8 (decent work and economic growth), Goal 9 (industry, innovation and infrastructure), and Goals 14 and 15 (life below water and on land).

8. Issues related to ABS and the Nagoya Protocol are addressed in a number of international forums besides the Convention and the Nagoya Protocol. The Secretariat collaborates with intergovernmental organizations working in this area with a view to following developments in other international forums and providing information on developments related to the Nagoya Protocol. Many of these organizations also participate in processes under the Nagoya Protocol. Cooperation with other conventions, international organizations and initiatives is further detailed in document CBD/NP/MOP/4/8.

### B. Key findings of the first assessment and review of the effectiveness of the Protocol

9. At its third meeting, the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol adopted decision [NP-3/1](#), which contained the key findings of the first assessment and

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<sup>3</sup> This information was initially prepared in preparation for the Global Consultation on the Post-2020 Global Biodiversity Framework in Relation to Access and Benefit-sharing and the Nagoya Protocol, held on 25 August 2019 (CBD/POST2020/WS/2019/8/3).

<sup>4</sup> See *Global Biodiversity Outlook 5* (2020). Additional and updated information is being made available in CBD/COP/15/9/Add.2 (updated from CBD/SBI/3/2/Add.2).

<sup>5</sup> Consult the SDG Indicators Database for more information, at: <https://unstats.un.org/sdgs/dataportal>.

review of the effectiveness of the Protocol. This first assessment, carried out four years after the entry into force of the Protocol, focused on assessing the status of Parties' implementation. The decision recognized that further work was needed, as a priority, for:

(a) The development of sound access and benefit-sharing legislation or regulatory requirements, which provide for legal certainty, clarity and transparency, taking into account special considerations in accordance with Article 8 of the Protocol and the need to ensure that the Nagoya Protocol and other relevant international instruments are implemented in a mutually supportive manner;

(b) Enhancing the implementation of provisions on compliance with domestic legislation and regulatory requirements and monitoring the utilization of genetic resources, as well as the provisions related to indigenous peoples and local communities;

(c) The full and effective participation of indigenous peoples and local communities in the implementation of the Protocol;

(d) Increasing awareness and participation of relevant stakeholders in the implementation of the Protocol.<sup>6</sup>

10. Decision NP-3/1 also encouraged Parties to expand their efforts to build and develop capacity to implement the Protocol, as well as to consider regional approaches to support harmonized implementation.

### **III. PROGRESS REPORT ON THE STATUS OF IMPLEMENTATION OF THE NAGOYA PROTOCOL**

11. As of 1 May 2022, a total of 137 Parties to the Convention on Biological Diversity had accepted, ratified or acceded to the Nagoya Protocol. This represents an increase of 32 countries from the February 2018 reference point.<sup>7</sup> Despite the challenges and delays brought on by the coronavirus disease (COVID-19) pandemic, Parties to the Protocol have continued to make progress in implementing key provisions, as detailed in the following paragraphs.

12. The Nagoya Protocol requires its Parties to take legislative, administrative and policy measures to implement the Protocol, as well as to establish relevant institutional structures, namely a national focal point on access and benefit-sharing, one or more competent national authorities, and, as part of measures supporting compliance, one or more checkpoints. Furthermore, as the ABS Clearing-House plays a key role in the implementation of the Protocol, Parties are required to make certain types of information available, such as information on permits or their equivalent issued at the time of access and relevant information collected or received at checkpoints.

13. According to information available as of 1 May 2022,<sup>8</sup> 101 Parties to the Protocol (74 per cent) had established at least one legislative, administrative or measure on ABS, an increase of 26 Parties from the reference point of 75 Parties. Twenty non-Parties also had measures in place. In addition, 19 Parties and 8 non-Parties to the Protocol were in the process of developing or revising measures for ABS.

14. With regard to institutional structures, as of 1 May 2022, 134 Parties (98 per cent) had designated a national focal point on access and benefit-sharing and 88 Parties (64 per cent) had designated one or more competent national authorities, an increase of 31 Parties from the reference point of 57 Parties. Furthermore, a total of 43 Parties (31 per cent) had designated one or more checkpoints, an increase of 14 Parties from the reference point of 29 Parties.

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<sup>6</sup> Decision NP-3/1, paragraph 5.

<sup>7</sup> Reference points were established as part of the first assessment and review of the effectiveness of the Protocol; see annex to decision NP-3/1.

<sup>8</sup> Available information includes records published in the ABS Clearing-House, information contained in interim national reports on the implementation of the Nagoya Protocol, as well as information contained in NBSAPs and national reports under the Convention.

15. With regard to making information available to the ABS Clearing-House, the following table summarizes national records published as of 1 May 2022, with the February 2018 reference point in parentheses when available.

**Table 1. Number of selected types of national records made available to the ABS Clearing-House as of 1 May 2022 (compared to February 2018 reference points, in parentheses)**

<i>Type of information</i>	<i>Number of records published</i>	<i>Number of Parties to the Protocol who published these records</i>
National focal point	133	133 (103)
Competent national authority	127	70 (45)
Checkpoint	76	36 (20)
Legislative, administrative or policy measure on ABS	259	63 (45)
Permit or its equivalent constituting an internationally recognized certificate of compliance	3 795 (146)	25 (12)
Checkpoint communiqué	65 (0)	7 (0)

16. The above table shows a particularly substantial increase in the total number of internationally recognized certificates of compliance<sup>9</sup> and a twofold increase in the overall number of Parties who published permits or their equivalent since the reference point. Furthermore, the first checkpoint communiqués were issued, signaling that the system set in place by the Nagoya Protocol to monitor the utilization of genetic resources and associated traditional knowledge is operational.

17. More information on progress made in the use and operation of the ABS Clearing-House can be found in document CBD/NP/MOP/4/6.

#### **IV. OPPORTUNITIES TO ENHANCE THE IMPLEMENTATION OF THE NAGOYA PROTOCOL IN THE CONTEXT OF THE POST-2020 GLOBAL BIODIVERSITY FRAMEWORK**

18. The preparatory process for the post-2020 global biodiversity framework has highlighted the importance of reflecting the three objectives of the Convention, and therefore the objective of the Nagoya Protocol, in a balanced way in the framework.<sup>10</sup> Participants in the Global Consultation on the Post-2020 Global Biodiversity Framework in Relation to Access and Benefit-sharing and the Nagoya Protocol<sup>11</sup> also noted that benefit-sharing was essential to achieve the 2050 vision for biodiversity and that it should be reflected in the framework as an incentive to conserving and sustainably using biodiversity. Several participants in the consultation also recognized the issue of digital sequence information to be one of the technological changes that were most relevant to access and benefit-sharing in the future.

<sup>9</sup> It should however be noted that 2755 of the 3795 permits or their equivalent were made available by one Party.

<sup>10</sup> See in particular [CBD/WG2020/REC/1/1](#), para. 6, [CBD/WG2020/3/7](#), appendix 1, para 5.

<sup>11</sup> The Global Consultation was held on 25 August 2019 in Nairobi, and its report was made available to the second meeting of the Open-ended Working Group on the Post-2020 Global Biodiversity Framework ([CBD/POST2020/WS/2019/8/3](#)).

19. At its third meeting, the Compliance Committee also emphasized the importance of benefit-sharing for the conservation and sustainable use of biodiversity and the importance of facilitating access to genetic resources for the realization of the three objectives of the Convention. The Committee also acknowledged the central importance of the Nagoya Protocol and its full implementation for strengthening the performance and success of the post-2020 global biodiversity framework, and that appropriate consideration of capacity-building and resource mobilization was important to promote compliance with the Nagoya Protocol.<sup>12</sup> In this regard, the Committee recommended that the Conference of the Parties serving as the meeting of the Parties to the Protocol encourage Parties to take the post-2020 global biodiversity framework as an opportunity to strengthen their efforts to implement their obligations under the Protocol effectively.<sup>13</sup>

20. The third objective of the Convention and the objective of the Protocol are also increasingly referenced in processes and policy debates under other conventions, international organizations and initiatives, such as the World Health Organization and the Intergovernmental Conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.<sup>14</sup> The surge of processes and debates referring to fair and equitable benefit-sharing highlight the continued need to enhance cooperation and synergies with a view to ensuring coherence and complementarity in the global ABS regime. Further, this points to increased awareness and pressure to give effect to fair and equitable benefit-sharing, as a social justice and equity principle relevant to the global agenda, in environmental and other areas.

21. The adoption and implementation of the post-2020 global biodiversity framework will be supported by a number of complementary decisions expected to be adopted by the Conference of the Parties at its fifteenth meeting. The following table highlights elements of those draft decisions which are of relevance to the Nagoya Protocol as opportunities to enhance its implementation. When an element closely relates to an agenda item of the Conference of the Parties serving as the meeting of the Parties to the Protocol, further details are provided in the relevant pre-session document.

**Table 2. Elements of relevance to the Nagoya Protocol contained in draft decisions to be considered by the Conference of the Parties**

Element	Relevance to the Nagoya Protocol
The post-2020 global biodiversity framework	The framework is to guide the implementation of the Convention and its three objectives in a balanced way, as well as the implementation of the two Protocols and other biodiversity-related multilateral agreements, processes and instruments. In considering the post-2020 global biodiversity framework in relation to the Nagoya Protocol, the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP) may wish to endorse the framework and welcome the related decision by the Conference of the Parties (see section V of the present document).
Digital sequence information on genetic resources	The Conference of the Parties has recognized the importance of digital sequence information on genetic resources for the three objectives of the Convention (decision 14/20) and is expected to consider, at its

<sup>12</sup> See in particular paragraphs 33 to 36 of the report of the Compliance Committee on its third meeting ([CBD/NP/CC/3/5](#)).

<sup>13</sup> This is reflected in the draft decision on compliance with the Protocol (agenda item 5) in the compilation of draft decisions (CBD/NP-MOP/4/1/Add.5).

<sup>14</sup> Further information on cooperation with other conventions, international organizations and initiatives can be found in document CBD/NP/MOP/4/8.

Element	Relevance to the Nagoya Protocol
	fifteenth meeting, a potential policy solution for access and the sharing of the benefits arising from the use of digital sequence information on genetic resources and how to address this issue in the context of the post-2020 global biodiversity framework. COP-MOP may wish to take note of the decision adopted by the Conference of the Parties and reflect on any implications for the implementation of the Nagoya Protocol. This will be addressed under the COP-MOP agenda item on digital sequence information on genetic resources.
Programme of work and institutional arrangements on Article 8(j) and other provisions of the Convention related to indigenous peoples and local communities <sup>15</sup>	The programme of work on Article 8(j) and other provisions of the Convention related to indigenous peoples and local communities aims to promote, within the framework of the Convention, a just implementation of Article 8(j) and related provisions at the local, national, regional and international levels and to ensure the full and effective participation of indigenous peoples and local communities at all stages and levels of its implementation. The draft programme of work aligned with the post-2020 global biodiversity framework includes elements which could further support the full and effective participation of indigenous peoples and local communities in the implementation of the Nagoya Protocol. COP-MOP may wish to take note of the programme of work.
Biodiversity and health <sup>16</sup>	The Conference of the Parties has recognized the value of One Health approaches (decisions XII/21, XIII/6, 14/4) and will consider at its fifteenth meeting a draft decision prepared by the Subsidiary Body on Scientific, Technical and Technological Advice. Bearing in mind in particular that ongoing negotiations under the auspices of the World Health Organization (WHO) related to a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response have raised issues related to access and benefit-sharing, COP-MOP may wish to take note of the decision by the Conference of the Parties referring to this process.
The enhanced multidimensional approach to planning, monitoring, reporting and review <sup>17</sup>	The proposed enhanced multidimensional approach comprises several elements aimed at supporting the implementation of the Convention in the post-2020 period, including updated guidance on NBSAPs, the voluntary peer-review, and the open-ended forum of the Subsidiary Body on Implementation. These tools could further support the implementation of the Protocol and help countries identify synergies between ABS and other biodiversity-related activities. COP-MOP may wish to invite Parties to make use of the enhanced approach to support the implementation of the Protocol.

<sup>15</sup> See [CBD/WG8J/REC/11/2](#).

<sup>16</sup> See [CBD/SBSTTA/REC/24/7](#).

<sup>17</sup> See [CBD/SBI/REC/3/11](#).



Element	Relevance to the Nagoya Protocol
The monitoring framework for the post-2020 global biodiversity framework <sup>18</sup>	The proposed monitoring framework for the post-2020 global biodiversity framework identifies indicators for monitoring the implementation of goals and targets of the post-2020 global biodiversity framework. In this context, considering the desirability of developing nationally relevant indicators for access and benefit-sharing to support the implementation of the Protocol, COP-MOP may wish to take note of the monitoring framework and of the process set forth in the decision to develop proposed indicators. This will be considered under the COP-MOP agenda item on monitoring and reporting (document CBD/NP/MOP/4/7).
The strategy for resource mobilization <sup>19</sup>	The draft resource mobilization component of the post-2020 global biodiversity framework is intended as the successor to the current resource mobilization strategy for the Convention and its Protocols. The resource mobilization strategy is to, inter alia, encourage Parties to update or develop national finance plans, based on NBSAPs and aligned with the post-2020 global biodiversity framework. COP-MOP may wish to invite Parties to consider the Nagoya Protocol in finance plans and other resource mobilizations efforts. This will be considered under the COP-MOP agenda item on the financial mechanism and financial resources (document CBD/NP/MOP/4/10).
Guidance to the financial mechanism	As the financial mechanism of the Convention and its Protocols, the Global Environment Facility, especially in its eighth and ninth replenishment cycles, will play an important role in supporting the implementation of the post-2020 global biodiversity framework. This will be considered under the COP-MOP agenda item on the financial mechanism and financial resources (document CBD/NP/MOP/4/10).
The long-term strategic framework for capacity-building and development to support the implementation of the post-2020 global biodiversity framework <sup>20</sup>	The long-term strategic framework is intended to guide the capacity-building and capacity development efforts of government and non-government actors for the implementation of the post-2020 global biodiversity framework. The framework includes guiding principles and key strategies to improve capacity-building and development. The framework calls for the formulation of thematic capacity development strategies or action plans to support implementation at the national level. COP-MOP may wish to request that the long-term strategic framework be considered in the revision of the strategic framework for capacity-building and development to support the effective implementation of the Nagoya Protocol. This will be considered under the COP-MOP agenda item on capacity-building and capacity development and awareness-raising (document CBD/NP/MOP/4/5).

<sup>18</sup> See [CBD/SBSTTA/REC/24/2](#).

<sup>19</sup> See [CBD/SBI/REC/3/6](#).

<sup>20</sup> See [CBD/SBI/REC/3/8](#).

Element	Relevance to the Nagoya Protocol
The technical and scientific cooperation component of the post-2020 global biodiversity framework <sup>21</sup>	Different technical and scientific cooperation options are being considered for supporting the implementation of the post-2020 global biodiversity framework. COP-MOP may wish to take note of the proposals.
The knowledge management component of the post-2020 global biodiversity framework <sup>22</sup>	Knowledge management has been identified as one of the key strategic means of implementation that will underpin the achievement of the goals and targets of the post-2020 global biodiversity framework. Knowledge management is to enhance the generation, collection, organization, sharing and utilization of relevant data, information and knowledge in the context of the framework. COP-MOP may wish to take note of the knowledge management component.
The gender plan of action for the post-2020 period <sup>23</sup>	The gender plan of action is to support and advance the implementation of the post-2020 global biodiversity framework in a gender-responsive way, including for access to genetic resources and the fair and equitable sharing of benefits arising from their utilization. COP-MOP may wish to take note of the plan of action.
The framework for a communications strategy <sup>24</sup>	The framework for a communications strategy will guide communications activities carried out by the Executive Secretary in support of the post-2020 global biodiversity framework. COP-MOP may wish to take note of the strategy.
The long-term strategic approach to mainstreaming biodiversity <sup>25</sup>	The integration of access and benefit-sharing across sectors at the national level has been previously encouraged by the Conference of the Parties (decision 14/31). The proposed long-term strategic approach to mainstreaming biodiversity would establish priorities for action, based on scientific evidence of likely impacts and benefits in accordance with the capacities and circumstances of Parties to support national mainstreaming policies.

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<sup>21</sup> See [CBD/SBI/REC/3/8](#).

<sup>22</sup> See [CBD/SBI/REC/3/10](#).

<sup>23</sup> See [CBD/SBI/REC/3/3](#).

<sup>24</sup> See [CBD/SBI/REC/3/5](#).

<sup>25</sup> See [CBD/SBI/REC/3/15](#).



## V. SUGGESTED ELEMENTS OF A DRAFT DECISION

22. Based on the information presented in the previous section, the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol may wish to adopt a decision along the following lines:

*The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,  
Recalling decision NP-3/15,*

*Emphasizing* the importance of advancing the implementation of the third objective of the Convention and objective of the Nagoya Protocol in the context of the post-2020 global biodiversity framework in a balanced manner,

1. *Welcomes* decision 15/-- of the Conference of the Parties adopting the post-2020 global biodiversity framework as a flexible global framework for action by all Parties and stakeholders to reach the 2050 Vision for Biodiversity and achieve the three objectives of the Convention as well as the objective of the Nagoya Protocol;

2. *Endorses* the post-2020 global biodiversity framework, as contained in the annex to decision 15/-- of the Conference of the Parties;

3. *Takes note* of the following decisions of the Conference of the Parties:

[.....]<sup>26</sup>

4. *Invites* Parties to expand their efforts to effectively implement the Protocol to contribute to the achievement of the post-2020 global biodiversity framework, in particular Goal C and Target 13 which relate to access and benefit-sharing;

5. *Invites* Parties, and encourages non-Parties, to make use of the approach to planning, monitoring, reporting and review under the Convention to enhance the implementation of the Nagoya Protocol and the integration of access and benefit-sharing in revised or updated national biodiversity strategies and action plans.

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<sup>26</sup> The list of relevant COP decisions will be determined by the MOP in the light of the discussions on this matter under the COP.