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PROTOCOL ON ACCESS TO GENETIC RESOURCES
AND THE FAIR AND EQUITABLE SHARING OF
BENEFITS ARISING FROM THEIR UTILIZATION

Third meeting

Sharm El-Sheikh, Egypt, 17-29 November 2018

Item 9 of the provisional agenda*

**CAPACITY-BUILDING PROGRAMME TO SUPPORT THE IMPLEMENTATION OF THE
NAGOYA PROTOCOL: OVERVIEW AND LESSONS**

Note by the Executive Secretary

I. INTRODUCTION

1. In decision NP-1/8, the Parties to the Nagoya Protocol adopted a strategic framework for capacity-building and development to support the effective implementation of the Protocol (see para. 1 and annex I to the decision), covering five key areas for capacity-building and development.¹
2. Considering the above, and with financial support from the Japan Biodiversity Fund, the International Development Law Organization (IDLO) and the Secretariat of the Convention on Biological Diversity (SCBD) established a capacity-building programme to support the implementation of the Nagoya Protocol. This initial collaboration, which was implemented in 2015-2016 focused on key area 2 of the strategic framework for capacity-building and development. The programme developed user-friendly learning materials, designed interactive training courses for national lawyers and policymakers and established a global network on access and benefit-sharing (ABS) Law.
3. In 2016, three IDLO-SCBD regional training courses on “Establishing Measures to Implement the Nagoya Protocol” were hosted for 60 participants from 40 countries in the Asian and Pacific, Latin American and Caribbean, and African regions. Participants were invited to complete eight e-learning modules (available in English, French and Spanish), attend a five-day intensive face-to-face workshop and join the global network on ABS Law.
4. In decision NP-2/8, the Parties requested the Executive Secretary, subject to the availability of resources, to further carry out and facilitate capacity-building activities to support the ratification and implementation of the Nagoya Protocol, as contained in the annex to the decision, also as reflected in the

* CBD/NP/MOP/3/1.

¹ The five keys areas for capacity-building and development are: (1) capacity to implement, and to comply with the obligations of the Protocol; (2) capacity to develop, implement, and enforce domestic legislative, administrative or policy measures on access and benefit-sharing; (3) capacity to negotiate mutually agreed terms; (4) capacity of indigenous and local communities and relevant stakeholders; including the business sector and the research community, in relation to the implementation of the Protocol; (5) capacity of countries to develop endogenous research capabilities to add value to their own genetic resources.

short-term action plan (2017-2020) to enhance and support capacity-building for the implementation of the Convention and its Protocols (para. 9).

5. As part of the short-term action plan, the Executive Secretary was requested to “extend the training workshops organized jointly with IDLO” and “continue to support the Global Network on Biodiversity Law.” In response, the Secretariat renewed its collaboration with IDLO, with the support of the Japan Biodiversity Fund and the European Union, to host up to six more training courses in 2017 and 2018.

6. The present document provides an overview of the new phase of the IDLO-SCBD capacity-building programme to support the implementation of the Nagoya Protocol, as well as lessons learned from its implementation. It complements information provided in CBD/NP/MOP/3/4, subsection II.

II. OVERVIEW OF THE CAPACITY-BUILDING PROGRAMME TO SUPPORT COUNTRIES IN THE IMPLEMENTATION OF THE NAGOYA PROTOCOL

7. The programme focused on strengthening the capacities of national officials to support countries in the development of national ABS frameworks for the implementation of the Nagoya Protocol. Building on the expertise of IDLO in strengthening judicial and legal capacity at the national level, the programme takes a comprehensive approach to capacity-building to achieve sustainable results – starting with the selection of candidates, tailoring of course materials to participant needs, an e-learning course to cover knowledge essentials, a hands-on face-to-face workshop focused on knowledge application, and ongoing networking opportunities to continue knowledge sharing.

8. For 2017-2018, the programme included the following components: (a) translation of the eight e-learning modules into Russian (b) six regional courses for countries that have ratified or acceded to the Protocol or are close to ratification, consisting of e-learning sessions, face-to-face workshops and online discussions; and (c) follow-up through the online global network of ABS legal experts, to facilitate peer-to-peer knowledge-sharing, learning and networking on ABS legal issues.

III. REPORT ON THE IMPLEMENTATION OF THE THREE COMPONENTS OF THE CAPACITY-BUILDING PROGRAMME DURING THE 2017-2018 BIENNIUM, INCLUDING FEEDBACK RECEIVED FROM PARTICIPANTS

A. E-learning modules in Russian

9. The first component of the programme consisted of translating the eight e-learning modules developed during 2015-2016 into Russian, using them for the regional training course for Eastern European and Central Asian countries and making them available as a self-paced course on the Biodiversity e-Learning Platform.²

10. In a step-by-step manner, the modules present the provisions of the Protocol, possible policy options for their implementation and practical examples of measures taken by countries. They were designed for learners to build a strong foundation of knowledge on the core concepts related to the Protocol and its implementation. The modules also include a quiz to review the information learned and additional available resources for consultation. The following eight e-learning modules were included in the online component of the course:

(a) “Legal reform”: addresses the legislative, administrative and policy measures to implement the Protocol, including guiding principles and indicative steps for legal reform processes, approaches for stakeholder engagement, information on conducting a gap analysis for existing frameworks and different regulatory options;

² <https://scbd.unssc.org/>

(b) “Policy-setting”: provides useful information on the policy-setting process to inform the design of ABS measures and outlines steps to define ABS policy priorities, including the range of options to consider at each step, with relevant country examples;

(c) “Institutional arrangements”: focuses on the core functions of domestic institutions (national focal points, competent national authorities, checkpoints) and provides options to integrate technical expertise into ABS decision-making and foster communication and collaboration at the national level;

(d) “Access to genetic resources”: details key concepts related to access to genetic resources, the core elements required under the Protocol, including on prior informed consent and mutually agreed terms, and other elements that can inform the design of clear and transparent rules and procedures on access;

(e) “Benefit-sharing”: addressed the concept and basic requirements in relation to benefit-sharing as developed under the Convention and the Protocol and provides an indicative three-step process for designing measures to support benefit-sharing, as well as options for tailoring measures to national contexts and for addressing transboundary cases;

(f) “Compliance”: provides useful information on the Protocol’s requirements to support compliance with domestic regulation and mutually agreed terms, the function of the internationally recognized certificate of compliance, and the different options and approaches taken to date to support compliance and to monitor the utilization of genetic resources;

(g) “Indigenous peoples and local communities”: examines different policy options for ABS measures related to indigenous peoples and local communities and supportive measures and the scope of activities that cover the Protocol’s obligations vis-à-vis indigenous peoples and local communities, including those related to prior informed consent, mutually agreed terms, transboundary and shared traditional knowledge, and customary law and community protocols;

(h) “Supportive measures”: focuses on measures that support the implementation of the Protocol, including those related to awareness-raising and capacity-building, and provides information on the Protocol’s requirements and steps encourage stakeholders to develop and promote supportive tools and mechanisms, such as model contractual clauses and voluntary codes of conduct.

11. In addition to Russian, the e-learning modules are also available in English, French and Spanish as self-paced courses on the Secretariat’s Biodiversity e-Learning Platform.³

B. Capacity-building course on establishing measures to implement the Nagoya Protocol

12. The second component of the capacity-building programme was to organize six regional training courses on the development or amendment of ABS measures for countries that have ratified or acceded to the Protocol or are close to ratification, using a blended learning approach combining e-learning, face-to-face workshops, and follow-up online discussions. The targeted regions were Asia, Central Africa, Latin America, Eastern Europe and Central Asia, Pacific islands and West Africa.

13. The face-to-face workshops were implemented with the support of the Japan Biodiversity Fund, the European Union, partner organizations and host Governments. Financial and/or technical support was received from the ABS Capacity-Development Initiative, the Central African Forests Commission (COMIFAC), the Secretariat of the Pacific Regional Environment Programme (SPREP), the Governments of Belarus and Viet Nam and the United Nations Development Programme (UNDP).

³ <https://scbd.unssc.org/course/index.php?categoryid=4>

1. *Course preparation and implementation*

14. The course was designed using the latest capacity-building techniques to meet the following main learning objectives:

- (a) Learn core obligations and options to implement the Protocol;
- (b) Share national experiences on the design of ABS measures;
- (c) Apply the knowledge acquired to plan next steps at the national level;
- (d) Strengthen leadership and communication skills to engage ABS stakeholders.

15. A description and a call for applications for the course entitled “Establishing legal frameworks to implement the Nagoya Protocol”, were disseminated through notification No. 2017-133 on 4 December 2017 as well as other channels. Outreach materials to support the call for applications were also developed including a webpage.⁴

16. More than 214 applications from around the world were received, and candidates were selected based on the following criteria:

- (a) Lawyer or policy officer in a position/ministry, including ABS focal points and competent national authorities, actively leading processes to implement the Nagoya Protocol, or with a position/ministry with ability to influence the process;
- (b) From a country with ongoing or imminent processes to implement the Nagoya Protocol, through ratification or intention to ratify and/or engagement in ABS-related initiatives or projects;
- (c) Inclusion of an endorsement letter from the Nagoya Protocol national focal point or when not available from the focal point for the Convention on Biological Diversity.

17. Whenever possible, two candidates were selected per country, with one candidate focused on legal aspects and the second focused on ABS policy and/or decision-making. A needs assessment was then conducted to inform the design of workshops tailoring the course content and approach to the specific needs of the selected participants.

18. Six weeks prior to the face-to-face workshops, participants gained access to course rooms set up on the Biodiversity e-Learning Platform that had been created for each regional course, completed the e-learning modules and participated in a teleconference welcome session.

19. A total of 118 participants from 70 countries joined the face-to-face workshops. An additional 22 candidates completed the e-learning modules and participated in the online welcome session but were unable to attend the face-to-face workshops.

20. The regional face-to-face workshops were as follows:

- (a) Central Africa (French): Douala, Cameroon, 9-13 April, with the support of the Central African Forests Commission (COMIFAC), UNDP and GIZ;
- (b) Asia (English): Da Nang, Viet Nam, 28 May-1 June, with the support of the Government of Viet Nam and UNDP;
- (c) Latin America (Spanish): Santiago, Chile, 18-22 June with the support of the Economic Commission for Latin America and the Caribbean (ECLAC) and UNDP;
- (d) Pacific islands (English): Nadi, Fiji, 23-27 July, with the support of the Secretariat of the Pacific Regional Environment Programme (SPREP) and UNDP;
- (e) Eastern Europe and Central Asia (Russian and English): Minsk, 10-14 September, with the support of the Government of Belarus and UNDP;

⁴ <https://www.idlo.int/news/events/course-establishing-measures-implement-nagoya-protocol-2017-2018>

(f) West Africa (French): Dakar, 17-21 September, with the support of the ABS Capacity-Development Initiative and UNDP.

21. The six workshops applied a practical and participatory methodology based on the needs assessments. The objectives of the workshops were as follows: (a) learn the core requirements of the Nagoya Protocol and options for their implementation; (b) gain knowledge of implementation challenge and resources/ideas for advancing processes; (c) peer-to-peer sharing of national experiences on the design of ABS measures; (d) strengthen leadership and communication skills relevant to engaging ABS stakeholders; and (e) apply the knowledge acquired to plan next steps in their own country processes.

22. The following provides an overview of the key participatory methods and their objectives:

(a) Pub Quiz: participants formed teams to answer questions on each of the themes covered by the eight e-learning modules, as an interactive way to review key concepts;

(b) World Cafés: participants were invited to join small, interactive group discussions guided by an expert facilitator to address the most pressing issues identified in the surveys and devise creative solutions by sharing experiences and brainstorming;

(c) LifeMaps: participants prepared a LifeMap of the status of ABS implementation in their country, reflecting on what has been achieved and the challenges faced since the adoption of the Convention, the key milestones that led them to where they are today, and what would be the basis for the key objectives of the successful implementation of the Protocol;

(d) Stakeholder engagement: this session reminded all participants that stakeholder engagement is key at all stages and requires them to adopt a flexible approach when engaging with external stakeholders in order to secure buy-in in policy discussions and gain support across sectors;

(e) Check Your Implementation: using a worksheet, this exercise aimed to help participants understand what has been achieved so far and what gaps remain in their countries towards the design of domestic measures to fully implement the Protocol, with a view to identifying and prioritizing areas for further focus and improvement;

(f) Ignite: this session focused on learning how to present the Nagoya Protocol to non-experts and use different techniques for more interactive PowerPoint presentations. The session tried to answer the question: “Why should we care about the Nagoya Protocol?”

23. During and after the workshops, participants were invited to evaluate the course and provide feedback on the e-learning and face-to-face workshops. Key points drawn from the evaluations are summarized below.

2. Feedback from course participants

24. Overall, participants expressed a high level of satisfaction with the training course, with an average rating of 88.10 per cent. Many participants praised the methodology, the quality of the information provided, the variety of activities and the organization of the course. Several participants experienced difficulties with the online component of the course due to a slow Internet connection. Some participants considered that too much information was provided in too short a time or that too little time was allocated for specific activities or discussions during the workshops.

25. Although the content of the workshops varied on the basis of the needs assessments, most participants considered that they could benefit from training on additional topics or that the training course could cover some topics in further detail, such as:

(a) Negotiating skills or techniques;

(b) Practical training on drafting ABS agreements and contracts;

(c) Monitoring the utilization of genetic resources and addressing non-compliance;

(d) Traditional knowledge and ABS;

(e) Other topics mentioned included digital sequence information, intellectual property rights and communication strategies.

26. In general, the areas where there was a more significant increase in skills and knowledge were compliance, the ABS Clearing-House, different approaches and options for domestic ABS frameworks, including country experiences, conducting stakeholder consultations and communications and communication skills related to ABS.

C. Continued support to the global network on ABS law

27. The third component of the capacity-building programme was to continue to support the online global network of legal experts on ABS, to serve as a mechanism for peer-to-peer knowledge-sharing, further learning, and exchange of resources and experiences on ABS legal issues.

28. Under this component, IDLO prepared five newsletters issued at approximately three-month intervals,⁵ with updates from members and key news relevant to ABS regulatory frameworks that was disseminated via email to members of the network. The Facebook closed group known as “Implementing the Nagoya Protocol (course)” now has 152 members and is intended as a space for alumni to share information, discuss key ABS issues and network. In addition, a group consisting of the participants in the Latin American course was created on the social media application “WhatsApp” to facilitate the routine exchange of information.

IV. LESSONS LEARNED FROM THE IMPLEMENTATION OF THE PROGRAMME

29. From the implementation of the capacity-building programme in 2017-2018, the following lessons were identified:

(a) During the six-week e-learning component of each regional course, it became apparent that several participants were experiencing difficulties due to slow Internet connections, especially in Africa and the Pacific islands. An offline version of the e-learning modules was made available on the platform which helped solve some of the problems. For future programmes or projects, it would be beneficial to include the design of offline versions of the e-learning modules and make them available for viewing on mobile devices. Moreover, it would be helpful for participants to have the full transcript of the e-learning modules that they can download as the offline version of the modules is still difficult to download with a slow Internet connection;

(b) Not all participants succeeded in completing the e-learning modules before attending the face-to-face workshop. Making the completion of the e-learning modules a prerequisite to be selected for the face-to-face workshop could help resolve this issue;

(c) For the Eastern European and Central Asian course, making the e-learning modules available in Russian and providing simultaneous interpretation during the face-to-face workshop was essential for success;

(d) There is a need to strengthen capacities at the national level and one option could be to package the training materials of the programme and make them available for the implementation of courses at the national level;

30. During the programme, participants identified a number of challenges that they were facing in implementing the Nagoya Protocol, including:

(a) Difficulties in raising awareness and building high-level political support for the implementation of the Protocol;

⁵ Dates the newsletters were issued: 18 December 2017; 12 March 2018; 21 May 2018; 30 July 2018; 10 October 2018.

(b) There is a limited number of ABS experts that can act as trainers or knowledge transfer facilitators, especially those with national implementation experience;

(c) It remains challenging to engage with the research and business communities, and more needs to be done to raise these stakeholders' awareness of the Nagoya Protocol.

31. Experts and participants also identified areas where more capacity could be built to support the implementation of the Protocol:

- (a) Compliance and monitoring the utilization of genetic resources;
 - (b) Negotiating skills;
 - (c) Practical training on how to draft good ABS agreements.
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