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# Introduction to ABS under the Nagoya Protocol

Regional Capacity Building Workshop on TK and Customary  
Sustainable Use under the CBD

*Nairobi, 26 January 2016*

*Lena Fey*

funded by



Federal Ministry  
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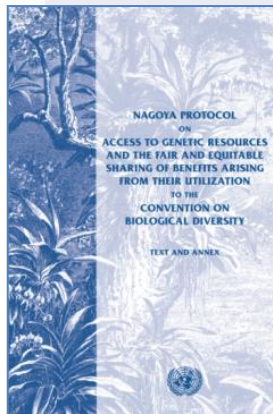


implemented by



**2010:**

# Nagoya Protocol on ABS



- Entered into force in **October 2014**
- Currently **70 Ratifications** (30 from Africa)

## **Legal certainty and transparency**

- For **providers**: ensuring **benefit-sharing** once GR leave the provider country for utilization
- **Preventing misappropriation** of GR and associated traditional knowledge (aTK)
- For **users**: providing for **clear and transparent procedures for access** to GR and aTK

# Nagoya Protocol: ABS mechanism



**PROVIDER  
COUNTRY**

**PIC**

**+** *CNA; (IPLCs)*

**MAT**  
*Terms of Use;  
Benefit-sharing (monetary  
or non-monetary)*

**=**

**Permit**



**Notified to ABS  
Clearing-House**

**GRs/aTK  
+  
Certificate**

**USER  
COUNTRY**

**Utilization of GRs**

**Monitoring of  
compliance:  
Checkpoints**

**Benefit-sharing**

**=**

**Internationally Recognized  
Certificate of Compliance**

# Indigenous Peoples and Local Communities and the Nagoya Protocol



## Preamble

- Relevance of Article 8(j)
- Interrelationship between genetic resources and TK and their inseparable nature for IPLCs
- Importance of TK for the conservation and sustainable use of biodiversity, and for the sustainable livelihoods of IPLCs
- Diversity of circumstances in which TK is held or owned
- UN declaration on the Rights of Indigenous Peoples
- Nothing in Protocol should be construed to diminish or extinguish existing rights of IPLCs

# Core Elements: TK and IPLCs

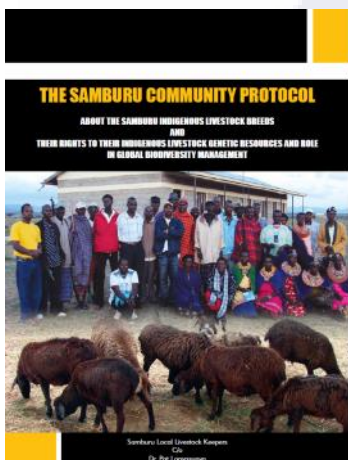


## Art. 6 – Access to GR

- Shall be based on PIC, including PIC of IPLCs where they have established rights to grant access

## Art. 7 – Access to TK associated with GR

- Shall be based, in accordance with domestic law, on PIC or approval and involvement of IPLCs and on MAT



## Art. 12.1 – Recognition of community protocols

- Parties shall, in accordance with domestic law, take into consideration IPLCs' customary laws, community protocols and procedures with respect to TK associated with GR.

# Core Elements: TK and IPLCs



## Art. 12.3 – Support to IPLCs

- Parties shall endeavour to support the development of
  - a) Community protocols** for access to TK associated with GR and BS from the utilization of TK associated with GR
  - b) Minimum requirements for MAT** to secure BS from the utilization of TK associated with GR
  - c) Model contractual clauses for BS** from the utilization of TK associated with GR

## Art. 12.4 – Customary use and exchange

Parties shall **not restrict the customary use and exchange** of GR and associated TK within and amongst IPLCs (including across borders)

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# Thank you!

...more on ABS and the  
ABS Capacity Development Initiative:

[www.abs-initiative.info](http://www.abs-initiative.info)

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