



The Nagoya Protocol

*CWANA Workshop on Conservation and
Use of Plant Genetic Resources
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Topics covered



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1. The Nagoya Protocol and its relation to the CBD
2. The Nagoya Protocol for Access and Benefit Sharing (ABS)
3. Main concepts of the Nagoya Protocol
4. Compliance rules for providers and users under the Nagoya Protocol
5. The Nagoya Protocol/CBD and the Plant Treaty – when does each of them apply?



The Convention on Biological Diversity (CBD)

In force since 29 December 1993

Sovereignty
(maximum principle)



Countries have **sovereign rights** over their **natural** resources
(includes *ALL biological* and *genetic* resources)

Regulate

Access



Use



Benefits



Bilateral
negotiation

Subject to

- **Prior Informed Consent (PIC)**
- **Mutually Agreed Terms (MAT)**



The Convention on Biological Diversity (CBD) and the Nagoya Protocol

CBD
(29 Dec 1993)

Regulates **ALL** biological & genetic resources

Objectives

1. Conservation
2. Sustainable Use
3. Fair & equitable benefit sharing

Supplemented
by

Rules to
implement
Access and
Benefit
Sharing (ABS)

**Nagoya
Protocol**
(12 Oct 2014)

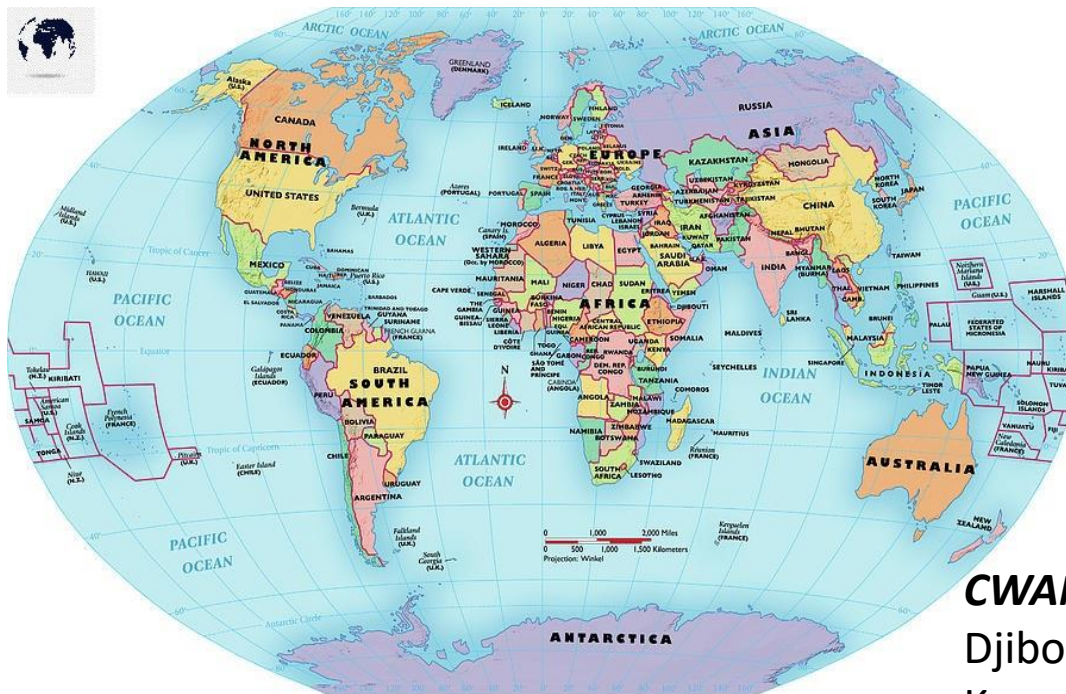


Parties to the CBD and to the Nagoya Protocol

CBD

ALL countries, *except* the USA and the Vatican

Contracting Parties are countries *only*



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First, must join
CBD

Nagoya
Protocol
138 countries
as of Dec 2022

CWANA Parties: Afghanistan, Bahrain, Djibouti, Egypt, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Mauritania, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Sudan, Syria, Tajikistan, Tunisia, Turkmenistan, UAE



The Nagoya Protocol for Access and Benefit Sharing (ABS)

- Provides rules and mechanisms for **countries to implement PIC** (prior informed consent) & **MAT** (mutually agreed terms) for **ABS** (access and benefit sharing)



Requires negotiation with the “Provider” on a case-by-case basis

It covers:

- Genetic resources (**GR**)
- Traditional knowledge (**TK**) **associated with GR**
- **Benefits** arising from the “**Utilization**” of GR and TK



Main concepts of the Nagoya Protocol

1

Who is a “**provider**” of GR?

- ✓ country of **origin** of the GR (*wild* or *domesticated* found *in-situ*) or
- ✓ country supplying **from ex-situ source** (acquired legally according to CBD)

➔ Only a “**Provider**” can **claim benefits**

Cactus pear - **Jordan**



Main concepts of the Nagoya Protocol

2

What sort of “**Utilization**” of GR triggers **benefits**?

- ✓ “To conduct **research and development** on the **genetic** and/or **biochemical composition** of genetic resources *including* through the application of **biotechnology**” (definition)
- ✓ “Biotechnology” - “any technology application that uses biological systems, living organisms, or derivatives thereof, to **make or modify products or processes** for specific use”



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Examples

- **Argan oil extracted** from the argan tree
- Breeding of **walnuts and pistachios** and products from them
- Indigenous or native breeds of **ruminants**
- **Extracts and compounds** from fungi, insects, bacteria
- **Plant genetic resources for food and agriculture not covered by the**

icarda.org *International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA or the Plant Treaty)*



Main concepts of the Nagoya Protocol

3

What types of “benefits”?

➤ They can be **monetary** & **non-monetary**; depends on “**provider**” country

Monetary

- ✓ Access fees
- ✓ Up-front payments
- ✓ Royalties
- ✓ License fees for commercialization
- ✓ Special fees for conservation trust funds
- ✓ Research funds
- ✓ Joint ventures
- ✓ Joint ownership of intellectual property rights



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Non-monetary

- ✓ R&D results sharing
- ✓ Collaboration in R&D programs
- ✓ Product development participation
- ✓ Education and training /capacity building
- ✓ Knowledge and technology transfer
- ✓ Social recognition



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Compliance rules of the Nagoya Protocol

ABS – Clearing House (CH)

<https://absch.cbd.int/en/>

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- ✓ International platform for information on national ABS implementation
- ✓ **International Recognized Certificate of Compliance (IRCC)** – issued based on received country's information

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Provider

Clear rules & process

Competent National Authority (CNA)

Issue a **Permit**

Inform the **ABS-CH**

User

Demonstrate PIC & MAT

Due diligence

Checkpoints for compliance

Cooperates if ABS is breached

1

Rules are for:

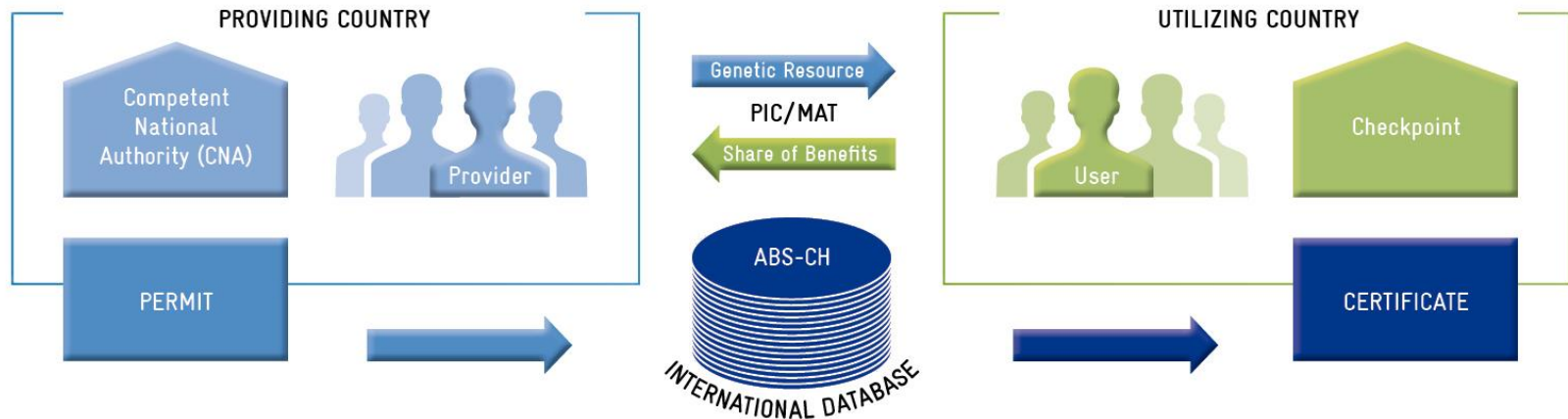
- Countries, and
- Citizens and legal entities through national regulations



Compliance in action

2

THE COMPLIANCE PROVISIONS OF THE NAGOYA PROTOCOL ON ABS



- 1 • PIC & MAT – between User and CNA of Provider country
- 2 • Competent National Authority (CNA) issues a Permit
• CNA notifies ABS-CH about Permit
- 3 • ABS-CH issues IRCC as evidence of compliance with Nagoya Protocol



When does it apply the **CBD/Nagoya Protocol** or the **Plant Treaty**?

CBD/ Nagoya Protocol



Bilateral ABS



**Bilateral
Material
Transfer
Agreement
(MTA)**

All biological &
genetic
resources
(animals, **plants**,
fungi, microbes)

Plant genetic
resources for
food and
agriculture
(**PGRFA**) of
64 crops

International Treaty on
Plant Genetic
Resources for
Food and Agriculture
(**ITPGRFA or Plant Treaty**)



**Multilateral ABS
for 64 crops
(Annex 1)**



**Standard
MTA
(SMTA)**





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Thank you!

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