

First meeting of the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing

13 - 17 October 2014 - Pyeongchang, Republic of Korea

IUCN's Key Messages to MOP1

With the ratification of the Nagoya Protocol by 51 Parties to the CBD and its entry into force, Aichi Target 16 is getting closer to its fulfillment by 2015. This is a most welcome development. While the entry into force is a necessary first step for the implementation of the Protocol at the international level, Parties still have to develop appropriate legislative, administrative, and policy measures at all levels in order to operationalize it on the ground.

IUCN encourages those CBD Parties that have not yet ratified the Nagoya Protocol to advance in their national processes and adhere to it in order to achieve as broad coverage of the Protocol's provisions as possible. IUCN stands ready to support all CBD Parties in their efforts to develop and implement national ABS frameworks that will materialize the Nagoya Protocol.

We hereby present IUCN's key messages to MOP1 on selected Agenda items.

8. The Access and Benefit-sharing Clearing-House and Information sharing (Art.14)

The Access and Benefit-sharing Clearing-House (ABS-CH) will provide a platform for exchanging information on ABS and will be instrumental in facilitating the implementation of the Nagoya Protocol. It will be important for monitoring ABS compliance, but equally important for promoting compliance by making information about domestic ABS regimes and related requirements accessible to potential users who are in the process of planning their sampling, research and development activities.

In strongly supporting the establishment, further testing and use of the ABS-CH, and in order to maximize its role in supporting the implementation of the Protocol in a transparent and clear way, **the information about domestic ABS regimes and National Focal Points/Competent National Authorities must be shared in a way that individuals as well as institutions with limited or no ABS expertise can easily find their way through.** Linking up with other information platforms for different user sectors is also desirable.

As regards specific awareness raising and capacity-building activities on how to use the ABS-CH, these should be targeted at different user sectors, with particular focus on the scientific research community. Regarding the latter, research funding agencies could play a critical role as they provide a considerable amount of the funding needed to undertake research and development.

10. Cooperative Procedures and Institutional Mechanisms to Promote Compliance with the Nagoya Protocol and Address Cases of Non-compliance (Art. 30)

IUCN recognizes that the ABS regime under the Nagoya Protocol can function best if all actors are aware that there would be consequences for failure to comply; we thus

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strongly support the work under this agenda item. **One step in the development of a compliance procedure or mechanism to consider is the development of an agreed list of the specific actions that must be taken at the State level, in order to comply with each Party's basic obligations under the Nagoya Protocol.** Such a list can be a "safe harbor" (a set of actions that clearly meet all obligations of the Party). Once such a list is agreed, it can form the basis for a collection of views and information on a country-by-country basis on whether it would be legally possible to take those actions and why or why not.

11. Model Contractual Clauses, Voluntary Codes of Conduct, Guidelines and Best Practices and/or Standards (Art. 19 and Art. 20)

The adoption of model contractual clauses, voluntary codes of conduct, guidelines and best practices and/or standards should be addressed as the commencement of a process designed to result in the formal identification of provisions that are at least proven in practice, and perhaps formally agreed to be enforceable by all Parties.

In this context, it is important to look not only at genetic material but also at associated data, i.e. data which is pertinent to or derived from research and development on the genetic material. **Voluntary codes of conduct, guidelines and best practices and/or standards should therefore also be developed for data management and related policies.**

Provisions of such codes of conduct, guidelines, standards, also need to be adopted creating special conditions to promote and encourage research, including simplified measures on access for non-commercial research purposes, as envisaged under Article 8(a). Such research plays an essential role in generating the knowledge on biodiversity necessary for its conservation and sustainable use. Special conditions may be created by linking exceptions for non-commercial research to a duty of users to keep research findings in the public domain without any downstream restrictions attached, an approach taken for example by the Micro B3 ABS Model Agreement (<http://microb3.eu/work-packages/wp8>).

14. Cooperation with Other International Organizations, Conventions and Initiatives

IUCN commends the many international organizations, conventions and initiatives which are working to address the provisions of the Protocol, to find cooperative mechanisms and/or to be included within its framework. As an essential prerequisite of that coordination, however, **a functional analysis must be undertaken to clarify the extent and nature of potential conflicts and to formally declare the (geographic, sectoral, biological, media-oriented, or other) areas of primary responsibility of each organization, convention or initiative, and the manner in which the ABS regime will function through coordination among these bodies, without generating conflict.**

17. Measures to assist in capacity-building, capacity development and strengthening of human resources and institutional capacities in developing country Parties and Parties with economies in transition (Art. 22)

Many Parties, in particular developing country Parties, lack the necessary capacities to effectively implement the Protocol. As a result, numerous calls for capacity-building and development have been voiced over the years. The advent of a flexible Strategic Framework for capacity-building to support the effective implementation of the Nagoya Protocol is thus very welcome.

Regarding funding for and sustainability of capacity-building initiatives, all efforts need to be made to find synergies and establish complementarities with ongoing and intimately related processes under the Convention. In particular, **synergies in resource allocation need to be made between the support provided for developing capacities related to the Nagoya Protocol (Target 16) and the process of revision and update of NBSAPs (Target 17).** In allocating funds for capacity-building, all donors and national budgets must strive to establish these complementarities to maximize efficiency.