



Learning Note The Nagoya Protocol

Key Messages

- the Nagoya Protocol will enter into force on 13th October 2014
- the Nagoya Protocol is a supplementary agreement to the Convention on Biological Diversity covering access and benefit sharing from the use of genetic resources and traditional knowledge associated with genetic resources
- A range of industries use genetic resources, including pharmaceuticals, beauty, food and beverage, seed and plant biotechnology as well as research
- Parties should cooperate to build and develop capacity, particularly in least developed countries, small island developing states and countries with economies in transition
- The UK government, through the Darwin Initiative, is supporting projects in biodiversity rich countries that are poor in financial resources to build and develop capacity to meet their obligations to the Nagoya Protocol

The Darwin Initiative supports developing countries to conserve biodiversity and reduce poverty. The Darwin Initiative (funded by DEFRA, DFID and FCO), provides grants for projects working in developing countries and UK Overseas Territories (OTs).

Projects support:

- the Convention on Biological Diversity (CBD)
- the Nagoya Protocol on Access and Benefit-Sharing (ABS)
- the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)
- the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES)

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Introduction

The Nagoya Protocol sets out how countries should provide access to genetic resources and associated traditional knowledge by users (such as pharmaceutical companies) whilst ensuring that providers (including indigenous and local communities) receive a fair and equitable share of benefits derived from their use. It provides a basis for greater legal certainty and transparency for both users and providers. The Protocol should create incentives for conserving biodiversity, its sustainable use and enhance the use of biodiversity for development and better human wellbeing.

In the context of the Nagoya Protocol, genetic resources are genetic material of plants, animals and micro-organisms that have actual or potential value. Traditional knowledge refers to the knowledge, know-how and practices of indigenous and local communities gained from their relationship with the environment.

In order to ensure that the Protocol is effectively implemented, a strategic framework for capacity building and development has been developed. This covers five areas:

- implementing and complying with the Protocol;
- developing, implementing and enforcing legislation and policy;
- negotiating mutually acceptable terms;
- inclusive stakeholder participation; and,
- improving research capabilities for adding value to genetic resources.

The Darwin Initiative is open to funding projects in any of these strategic areas both before and after the Protocol enters into force.

Genetic Resources and Traditional Knowledge

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What is the Nagoya Protocol?

The Convention on Biological Diversity (CBD), one of the three Rio Conventions, was adopted in 1992. It is the largest international mechanism for the conservation of biodiversity in the world. One hundred and ninety four (194) countries are Party to it.

The objectives of the CBD are threefold:

- conservation of biological diversity;
- sustainable use of the components of biodiversity;
- fair and equitable sharing of benefits arising from biodiversity, including by appropriate access.

Two Protocols and one Supplementary Protocol have been negotiated under the CBD – the Cartagena Protocol on Biosafety and its Supplementary Protocol on Liability and Redress, which deal with genetically modified organisms; and the Nagoya Protocol on Access and Benefit Sharing, which further elaborates the third objective of the CBD.

The Protocol will enter into force on 13th October 2014.

What is benefit sharing?

Benefit sharing can take a number of forms and is not necessarily financial in nature. Annex I to the Protocol sets out a range of monetary and non-monetary benefits. Non-monetary benefits could include:

- collaboration, cooperation and contribution in scientific research and development programmes and in education and training;
- technology transfer;
- institutional capacity-building;
- contributions to the local economy; and
- food and livelihood security benefits.



What does the Nagoya Protocol mean for developing countries?

The Nagoya Protocol addresses a number of important issues for developing countries, small island developing states (SIDS) and countries with economies in transition, where most of the world's biodiversity is found. While containing relatively larger proportions of valuable genetic resources and traditional knowledge, many developing countries have felt that, in general, they do not receive a fair and equitable share of benefits derived from the development of various products, by users, mostly from developed countries.

The flow of benefits from the use of genetic resources and traditional knowledge from developing countries has potential to contribute to reducing poverty and building local economies, including among indigenous and local communities.

Need to build capacity

Developing countries are also required to undertake a number of actions to enable transparent and easier access to genetic resources and traditional knowledge for the good of everyone on earth. This

requires capacity in several fields related to ABS which is presently limited. In recognition of this, the Protocol particularly encourages Parties to cooperate to build and develop capacity in the least developed states, the small island developing states and countries with economies in transition. The draft 'Strategic framework for capacity building and development to support effective implementation of the Nagoya protocol on Access and Benefit Sharing' groups capacity building needs around five specific areas. These are:

- implementing and complying with the Protocol;
- developing, implementing and enforcing legislation and policy;
- negotiating mutually acceptable agreements;
- ensuring that indigenous and local communities and other relevant stakeholders are fully participating; and,
- improving research capabilities to add value to genetic resources and traditional knowledge.



Nagoya Protocol, developing countries and the Darwin Initiative

Priority Areas for Developing Country Support

Areas identified as priorities for capacity building and development include taxonomic skills for assessing, inventorying and monitoring genetic resources; development of information systems; policy formulation and implementation; public education, awareness and participation; contract negotiation; dispute resolution; and, research capability.

Addressing these issues through the Nagoya Protocol is expected to create incentives for the conservation of biodiversity in biodiversity rich areas as developing countries realise the full benefits of their biological resources and traditional knowledge and develop their own capacity to exploit their genetic resources and traditional knowledge.

Relevance of Nagoya Protocol to Darwin Initiative

The Darwin Initiative supports developing countries to conserve biodiversity and reduce poverty.

The Darwin Initiative provides grants for projects working to help developing countries meet their

objectives under:

- the Convention on Biological Diversity;
- the Nagoya Protocol on Access and Benefit-sharing;
- the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA);
- the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES)

The Nagoya Protocol, once it enters into force, will further elaborate the third objective of the CBD. Parties to the Protocol need to put measures in place to implement the Protocol. Applicants to Round 21 of funding are therefore being encouraged to consider projects that support this.

The table opposite highlights some potential strategies that can be undertaken under each of the five areas outlined above.

Strategic activities that could be applied with Darwin funding

Target Capacity Area	Potential Strategic Activities
To implement and comply with the obligations of the protocol	<ul style="list-style-type: none"> • Enabling ratification of, and accession to, the Protocol • Raising awareness of genetic resources and traditional knowledge and associated ABS issues e.g. workshops • Mapping actors, existing expertise and international instruments • Enabling inter-agency coordination to implement Protocol • Establishing mechanism to monitor utilization of genetic resources including designation of checkpoints
To develop, implement and enforce domestic legislative, administrative or policy measures on ABS	<ul style="list-style-type: none"> • Developing policy frameworks on ABS • Taking stock of existing domestic measures on ABS and filling gaps • Setting up or amending existing ABS legislation, administrative and policy measures to implement the Protocol • Developing regional model legislation on ABS • Developing procedures for granting or refusing to prior informed consent • Promoting compliance with domestic legislation or regulatory requirements on ABS
To negotiate mutually agreeable terms	<ul style="list-style-type: none"> • Training in relevant legal, scientific and technical skills associated with mutually agreed terms (MAT) • Developing model sectoral and cross sectoral contractual clauses to provide guidance in negotiations of mutually agreed terms • Developing and implementing pilot ABS agreements • Promoting better understanding of business models in relation to utilization of genetic resources and traditional knowledge • Developing capacity to enhance transparency about the utilization of genetic resources and traditional knowledge in accordance with the Nagoya Protocol after users have left provider countries
Capacity of indigenous and local communities and other relevant stakeholders	<ul style="list-style-type: none"> • Enabling participation in legal, policy and decision making processes • Developing minimum requirements, as appropriate, for mutually agreed terms to secure fair and equitable sharing of benefits from use of traditional knowledge • Developing community protocols in relation to ABS to traditional knowledge and benefit sharing therefrom • Enhancing indigenous and local communities, in particular women, access to genetic resources and or traditional knowledge
Capacity of countries to develop endogenous research capabilities to add value to their own genetic resources	<ul style="list-style-type: none"> • Developing and using methods for assessing genetic resources and associated traditional knowledge • Facilitating transfer of technology and developing infrastructure for research, and building technical capacity to make such technology transfer sustainable • Undertaking research and taxonomic studies related to conservation of biodiversity and sustainable use of its components and bioprospecting • Developing genetic resources databases



Types of projects that Darwin may fund in support of Nagoya Protocol

Applicants to the Darwin Initiative could consider innovative projects addressing any of the five capacity areas identified in the Strategic Framework for capacity building and development.

This may cover:

- research and training e.g. on medicinal plants or dyes for food and cosmetics, modern DNA techniques, training courses on the Protocol. A project focussing on medicinal plants could cover cataloguing known uses of medicinal plants; analysis of active compounds; developing further a few plants that have more potential for commercial success with private sector; developing model MAT for a contract; exploring marketing opportunities; producing management plans for in-situ or ex-situ management of medicinal plants or guidelines for sustainable harvesting.
- support to legal, policy and institutional environments e.g. gap analysis of existing legal frameworks, institutional coordination and new business models suitable for ABS. This could be done through a project that scopes the institutional, policy and legal gaps so that laws and policies are harmonised. Other activities could

include supporting the set-up of an institutional coordination mechanism; training of relevant government workers like judges or police officers on the Nagoya Protocol and emerging legal, policy and institutional set up in the project area; and,

- education and awareness e.g. training modules on the Nagoya Protocol, policy dialogues or translating communication materials into local languages. Other activities for a project with this theme could be study trips, setting up a formal degree or diploma course on Nagoya Protocol and ABS; facilitating exchange programmes, study trips and innovative communication ways like web seminars or online discussions.

Potential projects could address one or more capacity area in the draft framework. Those projects that are linked to wider sustainable development initiatives like regional or national development plans are encouraged. The CBD website is very useful and also provides examples of ABS projects <http://www.cbd.int/abs/capacity-building.shtml>.



Conclusion

Getting countries to effectively implement the Nagoya Protocol is critical for several reasons. It has potential to contribute to poverty reduction among indigenous and local communities as well as in project countries. It also ensures that fair and equitable sharing of benefits happens. Lastly the success of the Protocol will strengthen biodiversity and cultural conservation by creating incentives through the benefit sharing.

References

Robinson, D.F. (2010) Confronting biopiracy: Challenges, Cases and International Debates. Earthscan
The Strategic Framework for building and development to support effective implementation of the Nagoya Protocol on Access and Benefit Sharing www.cbd.int/doc/meetings/cop/cop-12/official/cop-12-06-en.pdf

The Darwin Initiative aims to promote biodiversity conservation and sustainable use of resources around the world including the UK's Overseas Territories. The Darwin Initiative projects work with local partners to help countries rich in biodiversity but poor in resources to fulfil their commitments under the CBD, the Nagoya Protocol, the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and CITES. The Initiative is funded by the UK's Department for Environment, Food and Rural Affairs and from 2011, the Department for International Development. It is administered by the UK Government's Department for Environment Food and Rural Affairs (Defra). Since 1992, the Darwin Initiative has committed over £105million to over 903 projects in 158 countries.

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For more information on the Darwin Initiative see <http://darwininitiative.org.uk>

Darwin Initiative Secretariat, Defra. Zone 1/15, Temple Quay House, 2 The Square, Bristol BS1 6EB.

Tel: 0117 372 3599 Email: Darwin@defra.gsi.gov.uk