

## Ratification of the Nagoya Protocol: Key steps, rationale and justification



# Presentation outline

- Background
- Key Considerations
  - Why
    - What is needed
    - How?
- Sources of information on ABS and Nagoya Protocol



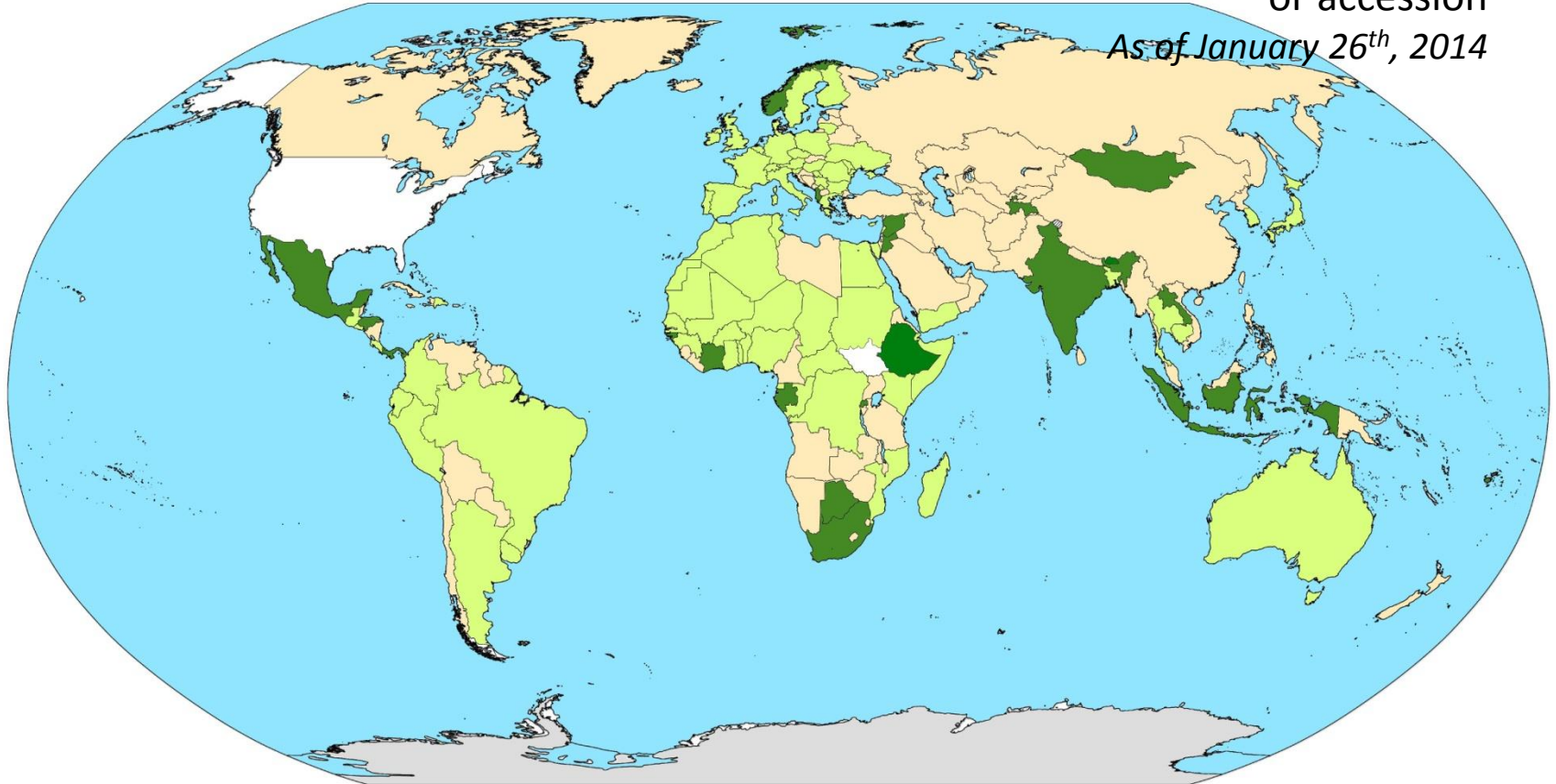
# Background: Status





- 50 ratifications/accessions needed
- Currently 29 ratifications/accessions received, including 2 from this region – Albania and Tajikistan
- Ratification by 7<sup>th</sup> July 2014 in order MOP 1 to be held in conjunction with COP 12 in October 2014 in Korea



# Nagoya Protocol – Status of signature, and ratification, acceptance, approval or accession

As of January 26<sup>th</sup>, 2014



-  CBD Parties that have ratified or acceded to the Protocol: **29**
-  Parties that signed Protocol by closing date for signature (1 Feb 2012)
-  Parties that did not sign and have not yet acceded to the Protocol
-  Countries that are not Parties to the CBD

Albania, Benin, Burkina Faso, Bhutan, Botswana, Comoros, Côte d'Ivoire, Egypt, Ethiopia, Fiji, Gabon, Guinea-Bissau, Honduras, India, Indonesia, Jordan, Lao PDR, Myanmar, Mauritius, Mexico, Micronesia, Mongolia, Norway, Panama, Rwanda, Syrian AR, Seychelles, South Africa, Tajikistan.



# Key arguments – WHY

- ❑ Why is the Nagoya Protocol important
- ❑ Why ratifying/acceding to the Protocol would be in your country's national interest
- ❑ The likely economic, social, cultural, environmental and legal impacts of ratifying/ acceding to the Protocol
- ❑ Potential advantages/benefits associated with you country's ratification/accession to the Nagoya Protocol
- ❑ Potential disadvantages (cost) to your country for not ratifying/acceding to the Nagoya Protocol



# POSSIBLE ARGUMENTS FOR RATIFICATION/JUSTIFICATION

**1. Potential benefits /arguments in support of ratification - Why ratifying/acceding to the Protocol would be in your country's national interest)**

- The Protocol, if ratified and effectively implemented, can contribute to **enhancing the economic and social well being** of your country
- The Protocol can contribute to **economic development, job creation & poverty alleviation** (i.e. through the re investment of potential monetary and monetary benefits in your country's economy)



## POSSIBLE ARGUMENTS FOR RATIFICATION/JUSTIFICATION (continued)

- Ratifying the Nagoya Protocol ensures that the use of your country's genetic resources and associated traditional knowledge effectively translates into **opportunities for fair and equitable sharing of benefits**
- The Protocol will strengthen the ability of indigenous and local communities (ILCs) in your country to **benefit from the use of their knowledge, innovations and practices**



## POSSIBLE ARGUMENTS FOR RATIFICATION/JUSTIFICATION (continued)

- By promoting the use of genetic resources and associated traditional knowledge, the Protocol creates opportunities for developing **an economy relying on sustainability** and increased knowledge of the value of natural resources
- The Protocol **creates incentives** for preserving genetic diversity and biodiversity in general, while providing the conditions for **continuous research and development on genetic resources.**





## POSSIBLE ARGUMENTS FOR RATIFICATION/JUSTIFICATION (continued)

- The designation of competent national authorities and national focal points provide an opportunity for countries to **streamline** their ABS procedures and **reduce administrative bottlenecks**.
- Ratifying the Protocol will allow your country to access **financial support** from the Financial Mechanism of the Protocol – the GEF- once it enters into force
- Ratifying the Protocol will enable your country to participate as a Party in the first meeting of the Parties to the Protocol and to play an important role in the decision-making process to support its implementation.



## POSSIBLE ARGUMENTS FOR COST BENEFIT ANALYSIS

### 2. Cost benefit analysis: what would be the cost for not ratifying/acceding to the Protocol

- Missing out on the potential opportunity to get **monetary benefits (i.e. milestones payments, royalties, research funding)** from the use of your country's genetic resources and associated traditional knowledge
- Missing out on the potential opportunity to **get non monetary benefits** ( i.e. through technology transfer and cooperation to build research and innovation capacities to add value to your country's genetic resources)



## EXAMPLE OF ARGUMENTS FOR COST BENEFIT ANALYSIS (continued)

- Not benefiting from an instrument that could provide **further incentives for the conservation of your country's biodiversity and the sustainable use of its components**
- Not benefiting from the **innovative compliance mechanisms** of the NP to prevent/address misappropriation of your country's genetic resources and associated traditional knowledge
- Not taking part in the initial decision making process of the COP MOP1 which will chart the way forward for the implementation of the Protocol.



# What is needed for ratification:

## Key national actions

- **Countries need to:**
  - Deposit the **instrument of ratification**, acceptance, approval or accession with Secretary General in New York
  - For this purpose develop or update **ABS measures** to implement the Protocol
    - Put in place the required **institutional structures**:
      - ABS National Focal Point
      - One or more competent national authority/ies
      - One or more checkpoints
  - Develop **capacity** and **raise awareness** about the Protocol



# How to Proceeded with ratification

- National procedures for the ratification/approval/ acceptance or accession to international treaties and instruments vary from country to country
- Typically, a country's parliament, cabinet, president and/or prime minister will have responsibility to approve the ratification of international treaties and instruments, and in some cases a combination of those different actors will be responsible.



# Key considerations: How to proceed for ratification/accession?

- ❑ In some countries the requirement prior to ratification/accession is to:
  - ✓ Develop new or update existing **ABS measures** to implement the Protocol obligations (Access, Benefit Sharing, Compliance, Traditional Knowledge)
  - ✓ Put in place the required **institutional structures**:
    - **ABS National Focal Point** ; one or more **competent national authority/ies**; one or more **checkpoints**
- ❑ In some countries, the above can be done in parallel or after ratification/accession
- ❑ Preparation of documents (e.g. cabinet memorandum and/or parliamentary briefing papers/ explanatory memorandum, cost-benefit analysis /gap analysis/ legal implications analysis etc.) to secure approval/ endorsement of the ratification



# Key considerations: How to proceed for ratification/accession? (continued)

- What is the legal process/procedure for the ratification of international treaties in your country?
- What kind of documents have to be prepared for the endorsement of the ratification (i.e. cabinet memos, briefing papers, cost-benefit analysis /gap analysis/ legal implications analysis etc.)
- Does your country require the passing of an implementing legislation before an international treaty can be ratified?



# Key considerations: How to proceed for ratification/accession? (continued)

- What is the role of your national Parliament/ National Assembly/ Congress in the ratification process?
- What kind of national consultations (if any) need to be undertaken prior to ratification? (i.e. consultations with relevant Ministries and stakeholders, Provinces and States-etc.).





# Ratification: General Steps

## A review of the Common steps towards ratification

- Lead Ministry on the issue (usually the Ministry of Environment) initiates the ratification process
- National consultations with key stakeholders and relevant government agencies/entities
- Stocktaking of existing ABS measures and relevant legislations
- Development of new, update or amendment of existing ABS measures to meet the obligations set out in the Protocol (*depending on a country's system*)

# Ratification: General Steps (continued)

- Preparation/ compilation of relevant documentation (i.e. cabinet memos, briefing papers/ cost benefit and legal implication analysis)
- Seeking formal endorsement for ratification ( i.e. through cabinet, parliament/senate, etc.)
- Deposit of the instruments of ratification, approval, acceptance or accession with the Depository



# Steps towards ratification: country examples

## India

### Steps taken towards ratification:

- Process was lead by the Ministry of Environment and Forests- Ministry of Foreign Affairs was involved at a later stage.
- National Biodiversity Authority reviewed the Biodiversity Act to see if it was in compliance with the Nagoya Protocol and to suggest necessary amendments to bring it in line.

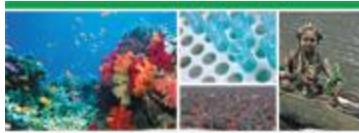


# Steps towards ratification: country examples (continued)

## India

- Gap analysis was conducted: gaps identified in relation to the Scope, Traditional Knowledge, Compliance
- Biodiversity Act is not being amended. However there have been certain gazette notifications (which act more as administrative rules) by the Ministry of Environment which supplement the Act to bring it in line with the Nagoya Protocol.

# Sources of information on ABS and the Nagoya Protocol



**Access and Benefit-sharing  
Factsheet**

[Access and Benefit-sharing](#)



**Nagoya Protocol  
Factsheet**

[Nagoya Protocol](#)



**Becoming a Party to the  
Nagoya Protocol  
Factsheet**

[Becoming a Party to the Nagoya Protocol](#)



# Sources of information on ABS and the Nagoya Protocol

The ABS Initiative has produced two films explaining the principles and implementation processes of Access and Benefit Sharing:

## 1 People Plants and Profits

Downloading and Streaming: <http://www.abs-initiative.info/video-people-plants-and-profit.html>

## 2. ABS Simply Explained

Downloading and Streaming:  
<http://www.abs-initiative.info/video-abs-simply-explained0.html>



# Thank you!

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**FOR MORE INFORMATION ON ABS:**

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