



# ASTA V&F Seed Conference 2015 - EI WG

## *Nagoya Protocol*

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ABS (Access and benefit Sharing) provisions in the CBD  
(Convention for Biological Diversity) (194 member states)  
not sufficiently elaborated

No appropriate national legislation and therefore  
ultimately no benefit sharing

Developing countries especially felt that benefit sharing  
was not taking place



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A binding system was needed

Which resulted in the Nagoya Protocol in 2010

Access and Benefit Sharing regulates the access and use of genetic resources and traditional knowledge, and the sharing of benefits stemming from this use between providers and users.

Access to plants etc nowadays cannot be assumed as given, and may not be for free



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What does the NP regulate:

- Defines access rules and regulations
- Establishes benefit sharing agreements
- Assures compliance in user countries

Important to note, the NP recognizes specialized ABS regimes, genetic resources used in these regimes are excluded from the NP



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The ABS mechanism of the IT PGRFA (International Treaty Plant Genetic Resources for Food and Agriculture) is one of those recognized systems

Through the NP access to genetic resources can only be obtained in a legal manner if Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT) have been obtained.



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Not required in countries which don't require them and also not necessary in case the system of the IT PGRFA is used

Most people agree the SMTA (Material Transfer Agreement) may serve as PIC and MAT, however it is not officially agreed upon by Parties to the CBD and NP



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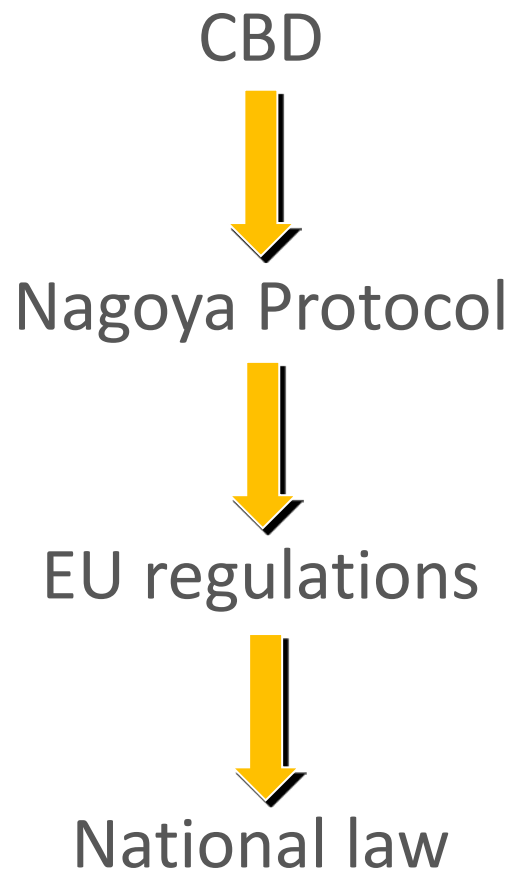
The implementation of the NP in Europe focuses solely on compliance measures

Users of genetic resources have an obligation to carry out due diligence

Each company has to develop its own systems how to be sure which genetic resources enter the company, what the rules for use are and fulfill the benefit sharing obligations



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12<sup>th</sup> October 2015 – cut-off date when national law has to be completed

Busy interpreting the requirements of the European Nagoya Directive

- Obligations with carrying out due diligence?
- Do commercial varieties fall under the scope?
  - How to maintain breeders exemption?

ESA and National Associations active to make one policy.  
In The Netherlands politics and industry work together