

The Access and Benefit-Sharing Clearing-House (ABSCH)

Interim National Report on the Implementation of the Nagoya Protocol (NR)

PUBLISHED: 11 DEC 2017

General information

Country

Malawi

1. Title of this national report

Status of Malawi's Implementation of the Nagoya Protocol

2. Contact person

COMPETENT NATIONAL AUTHORITY

ENVIRONMENTAL AFFAIRS DEPARTMENT
P/BAG 394, LINGADZI HOUSE, LILONGWE LILONGWE

Malawi

Phone: +256 1 771 111

Fax: +265 1 773 369

Email: eadinfo@nccpmw.org

Website: www.nccpmw.org

[ABSCH-CNA-MW-202014-1](#)

Institutional structures for the implementation of the Protocol

3. Has your country made the information available to the ABS Clearing-House as provided in Article 14.2?

Yes

4. Has your country taken legislative, administrative and policy measures on ABS?

Yes

Please provide further information

The 2017 newly enacted revised Environment Management Act contains substantial provisions to regulate and promote Access and Benefit Sharing in Malawi. The Act also provides for development of regulations and guidelines for ABS issues in Malawi. The Act establishes an authority responsible for regulating access to genetic resources, equitable sharing of benefits, protect indigenous property rights and regulate trade in component of biological diversity. The Act also establishes various committees such as the National Biodiversity Steering committee which is a policy making body that oversees biological diversity management, including ABS, in Malawi. The country possesses sectoral legislation responsible for management of access of specific genetic resources. These include the Forest Act which regulates access to forests in protected areas and export of forest products, Wildlife policy for wildlife resources, National Fisheries and Aquaculture policy for fisheries resources. These sectoral legislation have administrative process already existing for importing and exporting genetic resources that may have a direct bearing on ABS. The National Biodiversity Strategy and Action Plan II (2015-2025) outlines strategies and actions to enhance ABS from biodiversity and ecosystem services in Malawi.

5. Has your country designated a national focal point as provided in Article 13?

Yes

Use the text entry to provide further information

Environmental Affairs Department is the current designated national focal point for ABS.

6. Has your country designated one or more competent national authorities as provided in Article 13?

Yes

Use the text entry to provide further information

Malawi has designated competent national authorities: Environmental Affairs Department (EAD) and National Commission for Science and Technology (NCST)

7. Has your country made available to the ABS Clearing-House permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent (PIC) and of the establishment of mutually agreed terms (MAT)?

No

Please provide a summary of the main difficulties and challenges encountered for making this information available

One of the major challenges in making this information available on ABS Clearing-House is that most of the ABS contracts (MATs) have not yet been concluded. The information on permits that is available is not based on ABS contracts

8. Has your country made available to the ABS Clearing-House permits or their equivalent for the constitution of an internationally recognized certificate of compliance in accordance with Article 17.2?

No

Use the text entry to provide further information

One of the major challenges in making this information available on ABS Clearing-House is that most of the ABS contracts (MATs) have not yet been concluded. Therefore even though permits have been issued , they are not accompanied by ABS contracts, or PIC and MAT.

9. Has your country designated one or more checkpoints as provided in Article 17?

No

Please provide a summary of the main difficulties and challenges encountered for designating one or more checkpoints

The main challenge encountered in designating check points is that most of the potential check points require capacity building and awareness on ABS issues and their differentiated roles as ABS check point.

10. Additional information:

Please provide a summary of the main difficulties and challenges

The main difficulties and challenges include

1. inadequate understanding of how the different roles of the institutions and the different ABS processes will play out in light of the different mandates of the institutions
2. Lack of a stand alone ABS legislation
3. Inadequate awareness and engagement with other stakeholders.
4. Monitoring compliance of agreed terms and negotiation of benefits remain crucial challenges of implementation of the Nagoya Protocol.

Legislative, administrative or policy measures on access and benefit-sharing (ABS measures)

Access to genetic resources (Article 6)

11. Is access to genetic resources subject to PIC as provided in Article 6.1?

Yes

12. Does your country have fair and non-arbitrary rules and procedures on accessing genetic resources as provided in Article 6.3 (b)?

Yes

Use the text entry to provide further information

Based on the Environmental Management Act(2017) guidelines on ABS that contain non arbitrary rules and procedures on access of genetic resources are under development and a draft is already in place

13. Does your country provide information on how to apply for PIC as provided in Article 6.3(c)?

Yes

Use the text entry to provide further information

The National Focal Point provides the information upon request but the procedures will be provided in the guidelines that are current in draft form and will be made available of the National Competent authorities websites.

14. Does your country provide for a clear and transparent written decision by a competent national authority as provided in Article 6.3 (d)?

Yes

Use the text entry to provide further information.

The written decisions are given in the form of access and export permits based on the local legislation's. Additionally, conditions are clearly provided also when issuing and in line with permits by the competent national authorities.

15. Does your country provide for the issuance at the time of access of a permit or its equivalent as provided in Article 6.3 (e)?

Yes

Use the text entry to provide further information

In Malawi the different sectoral institutions issue access permits as a pre-requisite for providing access to Genetic Resources.

16. Please provide the number of permits or their equivalents made available through the ABS-Clearing-House since the entry into force of the Protocol for your country.

0

Use the text entry to provide further information

There have been over 15 export permits issued through the CNA since Malawi;s ratification to the Nagoya Protocol. However, most sectoral institutions also issue permits. An inventory on the number of permits issued is planned to be undertaken for planning purposes and stocktaking of the flow of Genetic resources across borders.

17. Does your country have rules and procedures for requiring and establishing MAT as provided in Article 6.3 (g)?

Yes

Use the text entry to provide further information

The Environmental Management Act, the draft ABS guidelines and administrative procedures from sectoral legislations provide for the requirement to establish MAT

18. Benefits received since entry into force of the Protocol for your country from the utilization of:

Genetic resources

Yes

Monetary benefits

Yes

Some benefits have been provided to the communities in monetary form for access of genetic resources by bio-traders. This was done directly from actual users to the communities, there is no clear written documentation on MAT but the CNA has embarked on facilitating establishment of a MAT.

Non-monetary benefits

Yes

Recipient communities receive training in sustainable utilisation of genetic resources and procurement of community common infrastructure like boreholes. There are also benefits accrued in research institutions inform of capacity building and technology transfer but documentation and monitoring after issuing research permits by NCST remains a challenge.

19. Additional information:

Please provide a summary of the main difficulties and challenges

The role of bio-traders in benefit sharing presents a challenge in regulation under the Nagoya Protocol. Most users outside the country use bio-traders in accessing genetic resources which leaves no documentation. Lack of awareness on benefit sharing mechanism, Lack of capacity /empowerment of local communities to negotiate benefits and absence of regulations to guide negotiations pose challenges in implementation of ABS measures

Fair and equitable benefit-sharing (Article 5)

20. Has your country taken legislative, administrative or policy measures to implement Article 5.1 that provides that benefits arising from the utilization of genetic resources as well as subsequent applications and commercialization are shared with the Party providing such resources that is the country of origin of such resources or a Party that has acquired the genetic resources in accordance with the Convention as provided in Article 5.3?

Yes

Use the text entry to provide further information

The draft guidelines on ABS outlines that benefits arising from the utilisation of genetic resources as well as subsequent applications and commercialisation are shared with the Party providing the resources

21. Has your country taken legislative, administrative or policy measures with the aim of ensuring that the benefits from the utilization of genetic resources held by indigenous and local communities, in accordance with domestic legislation regarding the established rights of these indigenous and local communities over these genetic resources, are shared with the indigenous and local communities concerned as provided in Article 5.2?

Yes

Use the text entry to provide further information

The EMA 2017 empowers the national focal point to provide measures for protecting established rights of local communities over genetic resources. The draft ABS guidelines supplements the Act through provision and clarification on the roles and responsibilities of the different actors in the value chain.

22. Has your country taken legislative, administrative or policy measures in order that benefits arising from the utilization of traditional knowledge associated with genetic resources are shared with indigenous and local communities holding such knowledge as provided in Article 5.5?

Yes

Use the text entry to provide further information

The EMA 2017 empowers the national focal point to provide measures for protecting established rights of local communities over genetic resources. The draft ABS guidelines supplements the Act through provision and clarification on the roles and responsibilities of the different actors in the value chain

23. Additional information:

Please provide a summary of the main difficulties and challenges for putting measures in place

The major challenges emanate from defining the term 'ownership' in relation to common genetic resources and traditional knowledge. Other challenges relate to the scope of ABS to the latest and potential bio-processes and innovations. Empowerment of local communities and institutions inform of information management remains a challenge to fair and equitable benefit sharing. How to value traditional knowledge.

Compliance with domestic legislation or regulatory requirements on ABS (Article 15 and Article 16) and monitoring the utilization of genetic resources (Article 17)

24. Has your country taken appropriate, effective and proportionate legislative, administrative or policy measures to provide that genetic resources utilized within your jurisdiction have been accessed in accordance with PIC and that MAT have been established as required by the domestic ABS legislation or regulatory requirements of the other Party as provided in Article 15.1?

Yes

Please indicate whether your country has taken measures to address situations of non-compliance with those measures as provided in Article 15.2?

No

Have there been specific cases in which your country cooperated with other Parties in cases of alleged violation of ABS measures as provided in Article 15.3?

Yes

Please provide further information/label>

The South Africa ABS focal point reported two cases of possible access of biological resources which needed follow up by the Malawi government. The first case was difficult to conclude because the user was untraceable whilst the second was concluded and user complied with Malawian legislation.

25. Has your country taken appropriate, effective and proportionate legislative, administrative or policy measures to provide that traditional knowledge associated with genetic resources utilized within your jurisdiction has been accessed in accordance with PIC or approval and involvement of indigenous and local communities and that MAT have been established as required by the domestic ABS legislation or regulatory requirements of the other Party where such indigenous and local communities are located as provided in Article 16.1?

Yes

Please indicate whether your country has taken measures to address situations of non-compliance with those measures as provided in Article 16.2?

No

Has your country cooperated in specific cases of alleged violation of ABS measures as provided in Article 16.3?

No

Please provide further information

The absence of regulations creates a challenge for enforcement and monitoring compliance. These challenges necessitates the need for public awareness and training in ABS for all check points to monitor compliance.

26. Does your country require users of genetic resources to provide information related to PIC, to the source of the genetic resource, to the establishment of MAT and/or utilization of genetic resources at a designated checkpoint, as appropriate, as provided in Article 17.1 (a)(i) and (ii)?

Yes

Please provide further information

The export application form for the National Focal Point requires applicants to attach proof of PIC and/or MAT from providers and this has also being highlighted in the draft ABS guidelines. However, due to sectoral legislation's and their provisions for access and export permits, application forms from the other sectors will be revised to be in line with the requirements under the Protocol

Has your country taken measures to address situations of non-compliance?

No

Use the text entry to provide further information

Currently there is no clear monitoring systems therefore its difficult to monitor and track non-compliance

27. Has your country provided the information referred to in Article 17.1 (a)(i) to relevant national authorities, to the Party providing PIC and to the ABS Clearing-House as provided in Article 17.1 (a)(iii)?

No

Please provide a summary of the main difficulties and challenges

Check points have not yet been designated. The commune shall be used after check point designation

Please provide number of checkpoint communiques available in the ABS Clearing-House, if applicable

0

28. Has your country taken measures to encourage users and providers to include provisions in MAT to share information on the implementation of such terms as provided in Article 17.1(b)?

Yes

Use the text entry to provide further information

It is one of the conditions in a permit for a user to provide reports and information on the use of genetic resources to the national focal point. However, because of lack of proper monitoring systems, most users have not submitted such information. It is anticipated such measures will be included in ABS contracts.

29. Is your country encouraging the use of cost-effective communication tools and systems as provided in Article 17.1 (c)?

Yes

Please provide further information on how your country is encouraging the use of cost-effective communication tools and systems

Currently most of the ABS communication including negotiations are conducted using electronic media (Online discussions, skype calls and emails)

Use the text entry to provide further information

Ensuring compliance involved good use of check points (once identified) and also good investigative techniques to understand the companies history. This requires capacity and involvement of a wide range of trained stakeholders along the value chain.

30. Additional information:

No additional information provided

Compliance with mutually agreed terms (MAT) (Article 18)

31. Is your country encouraging the inclusion of provisions in MAT to cover dispute resolution as provided in Article 18.1 (a) (b) and (c)?

Yes

Use the text entry to provide further information

All the MATS under development include provisions for dispute resolution

32. Does your country ensure that opportunity to seek recourse is available under your legal systems in cases of disputes arising from MAT as provided in Article 18.2?

Yes

Use the text entry to provide further information

All the MATS under development indicate the applicable law for the MAT. However, the issue of conflicts of laws in terms of jurisdiction are of concern

33. Has your country taken measures regarding the following points as provided in Article 18.3?

Access to justice?

No

Utilization of mechanisms regarding mutual recognition and enforcement of foreign judgements and arbitral awards?

No

Please provide further information

Enforcement of such provisions are always dependent on domestic law therefore there is a limitation to how far a provider can go to enforce compliance

34. Additional information:

Please provide a summary of the main difficulties and challenges

Even if the relevant law in the jurisdiction where the contract will be enforced is identified, there is limited capacity for the provider country to enforce provisions of the contract in the user country .

Special considerations (Article 8)

35. In the development and implementation of ABS legislation or regulatory requirements has your country:

Created conditions to promote and encourage research which contributes to the conservation and sustainable use of biodiversity including through simplified measures on access for non-commercial research purposes, taking into account the need to address a change of intent for such research as provided in Article 8(a)?

Yes

Please provide further information

Currently this is considered on a case by case basis when negotiating ABS contracts. It is not always possible to identify the trigger and exhaust all scenarios that necessitates a need for special consideration. The user always has an upper hand for when the change of intent occurs.

Paid due regard to cases of present or imminent emergencies that threaten or damage human, animal or plant health as provided in Article 8(b)?

No

Please provide further information

This will be incorporated in the draft guidelines but will depend on institutional capacity of the permitting authority

Taken into consideration the need for expeditious access to genetic resources and expeditious fair and equitable sharing of benefits arising out of the use of such genetic resources, including access to affordable treatments by those in need, especially, in developing countries as provided in Article 8(b)?

No

Please provide further information

This will be incorporated in the draft guidelines

Considered the importance of genetic resources for food and agriculture and their special role for food security as provided in Article 8 (c)?

Yes

Please provide further information

Regulation will be on the use not on the genetic resource. If the use is beyond food and agriculture, this shall trigger ABS considerations.

36. Additional information:

Please provide a summary of the main difficulties and challenges for putting measures in place

Lack of experience in implementing ABS contracts inhibits the development of measures for special consideration.

Provisions related to indigenous and local communities (Articles 6, 7 and 12)

37. Does your country have indigenous and local communities?

Yes

38. Do indigenous and local communities have the established right to grant access to genetic resources according to your domestic law? (Article 6.2)

Yes

Please provide further information and reference to the domestic law establishing rights of indigenous and local communities to grant access to genetic resources

There is nothing in the local legislation that prevents local communities from granting access to Genetic Resources. In some cases particularly where the genetic and biological resources are managed through co-management, the local communities are able to regulate access and harvesting of such resources to a certain extent at local level.

Does your country have measures in place with the aim of ensuring that the prior informed consent or approval and involvement of indigenous and local communities is obtained as provided in Article 6.2?

Yes

Please provide further information

The Environmental Management Act requires PIC of local communities in all arrangements for bio prospecting. However the Act also gives the NCA authority to establish other measures for sustainable utilisation and management of genetic resources

Has your country set out criteria and/or process for obtaining prior informed consent or approval and involvement of indigenous and local communities for access to genetic resources in Article 6.3(f)?

Yes

Please provide further information

This will be included in the guidelines being drafted.

39. In accordance with domestic law has your country taken measures with the aim of ensuring that traditional knowledge associated with genetic resources that is held by indigenous and local communities within your country is accessed with the PIC or approval and involvement of these indigenous and local communities and that MAT have been established as provided in Article 7?

No

Use the text entry to provide further information

Apart from enquiring whether the applicant has utilised Traditional Knowledge in the application for export, National Competent Authority has not taken any further measures to verify approval and involvement of indigenous and local communities

40. In implementing the Protocol and in accordance with your domestic law, is your country taking into consideration indigenous and local communities' customary laws, community protocols and procedures with respect to traditional knowledge associated with genetic resources as provided in Article 12.1?

Yes

Use the text entry to provide further information

This will included in the guidelines being drafted.

41. Has your country established mechanisms to inform potential users of traditional knowledge associated with genetic resources about their obligations as provided in Article 12.2?

Yes

Use the text entry to provide further information

The obligations are included in revised Environmental Management Act (EMA) and will be clarified in the guidelines being drafted. However, verification of whether or not the genetic resource is being used based on its traditional knowledge is dependent on full disclosure by the user and full knowledge of the use by the communities.

42. Is your country supporting the development by indigenous and local communities of the following tools as provided in Article 12.3?

Community protocols

Yes

Please provide further information on how your country is supporting the development of community protocols

Some community protocols implemented by sectoral institutions are already operational. However there is need to promote integration of ABS issues

Minimum requirements for mutually agreed terms

No selection made

Model contractual clauses

Yes

Please provide further information on how your country is supporting the development of model contractual clauses

The contractual clauses that have been used in the currently ABS contracts still under negotiation, will be used as model contractual clauses

43. Has your country endeavoured not to restrict the customary use and exchange of genetic resources and associated traditional knowledge within and among indigenous and local communities as provided in Article 12.4?

Yes

Use the text entry to provide further information

There is nothing in the local legislation that restricts customary use and exchange of genetic resources and traditional knowledge among local communities.

44. Additional information:

Please provide a summary of the main difficulties and challenges for putting measures in place in relation to traditional knowledge associated with genetic resources

In some cases the local communities have little understanding regarding rights to and value of traditional knowledge. More awareness raising and empowerment would improve the situation

Contribution to conservation and sustainable use (Article 9)

45. Is your country encouraging users and providers to direct benefits arising from the utilization of genetic resources towards the conservation of biological diversity and sustainable use of its components as provided in Article 9?

Yes

Use the text entry to provide further information

In all the ABS contracts that are under development, direct benefits arising from utilisation of genetic resources have been included

46. Please indicate how the implementation of the Nagoya Protocol has contributed to conservation and sustainable use of biodiversity in your country:

Implementation of the Nagoya Protocol has assisted the competent national authorities in monitoring the various uses and exchange of genetic resources and hence making it possible to prescribe measures for sustainable use and management of biodiversity. It has also enables us to identify resources of high value and potential for exploitation hence special conservation approaches

47. Additional information:

Please provide a summary of the main difficulties and challenges

Illegal bio-traders remain a challenge once a resource has been identified as a high value genetic resource. Most of the resources that are being accessed under biotrade in the country , are being used for bio-prospecting in their final destination.

Transboundary cooperation (Article 11)

48. Is your country endeavouring to cooperate, with the involvement of indigenous and local communities concerned, with a view to implementing the Protocol in instances where the same genetic resources are found in situ within the territory of more than one Party as provided in Article 11.1?

Yes

If your country has indigenous and local communities, please provide further detail of their involvement

This issue can also be taken up at Regional economic communities through multilateral agreements

49. Is your country endeavouring to cooperate with a view to implementing the Protocol in instances where the same traditional knowledge associated with genetic resources is shared by one or more indigenous and local communities in several Parties as provided in Article 11.2?

Yes

Use the text entry to provide further information

Malawi is willing to cooperate under the guidance of Regional economic communities through multilateral agreements

50. Additional information:

Please provide a summary of the main difficulties and challenges

Most countries are in different stages of ABS implementation which makes it difficult to synchronise the various national initiatives.

Model contractual clauses, codes of conduct, guidelines and best practices and/or standards (Article 19 and 20)

51. Is your country encouraging the development, update and use of model contractual clauses for MAT as provided in Article 19?

No

Use the text entry to provide further information

We have not yet enough contracts to develop model contractual clauses. However we will continue to use the current clauses under the current MAT s being developed as models for future MATs.

52. Is your country encouraging the development, update and use of codes of conduct, guidelines and best practices or standards as provided in Article 20?

No

53. Additional information:

Please provide a summary of the main difficulties and challenges

Each application is different based on the type of genetic resource being accessed and also based on the use of the GR. Even though we may have model contractual clauses, the scenarios are always dependent on the use of the GR.

Awareness-raising and capacity (Article 21 and 22)

54. Has your country taken measures to raise awareness of the importance of genetic resources and traditional knowledge associated with genetic resources and related access and benefit-sharing issues as provided in Article 21?

Yes

Has your country taken measures to implement the awareness-raising strategy for the Nagoya Protocol on ABS?

No

Use the text entry to provide further information

Malawi has implemented the following awareness raising initiatives: I

1. Awareness raising meetings in 3 districts that are highest providers of genetic resources and are tourist areas
2. Capacity building training in ABS of key stakeholders and a biodiversity research committee
3. Community awareness on Access and Benefit Sharing
4. Engagement with the media about Malawi's ratification of the Nagoya Protocol
5. Dialogue between government, the community, user (biotrader) and lawyers on access and benefit sharing and identification of capacity needs.

55. Has your country taken measures to build and develop capacity and strengthening of human resources and institutional capacities to effectively implement the Protocol as provided in Article 22?

Yes

Has your country taken measures to implement the strategic framework for capacity-building and development to support effective implementation of the Nagoya Protocol on ABS?

No

Use the text entry to provide further information

Through support from GIZ (ABS Capacity Development Initiative) and Norad and Fridtjof Nansen Institute (FNI) Malawi organised a training on development of ABS Contracts where about 17 officers from government Institutions, research and academic institutions were trained on ABS contracts with a case study on a current ABS contract under development. Recently, the government also conducted a working session on this report and another on development of guidelines which started with training of the various participants.

56. Has your country received external support for building and developing capacity for the implementation of the Nagoya Protocol?

Yes

Use the text entry to provide further information

Malawi has benefited from the International and Regional capacity building provided by the secretariat, IDLO and the ABS Capacity Development Initiative. At least 9 Malawian Officers and 1 private institution have undergone at least 1 international/regional training on ABS over the last five years. Specifically through the assistance of the GIZ (ABS Capacity Development Initiative) and Norad and Fridtjof Nansen Institute (FNI), a legal technical expert has been provided to assist Malawi in development of its ABS contracts and ABS guidelines. The expert has greatly assisted in in country capacity building and on the job-training with Malawian lawyers and scientists.

57. Has your country provided external support for building and developing capacity for the implementation of the Nagoya Protocol?

No

Use the text entry to provide further information

The country does not have capacity to support other capacity building activities in other countries but can always share our experiences when opportunities arise.

58. Additional information:

Please provide a summary of the main difficulties and challenges

Malawi believes that effective ABS capacity building should be accompanied by awareness tools and there has been financial challenges to come up with awareness tools and train communication experts on effective communication on ABS. Further, there is more capacity building required for lawyers and scientists, specifically scientists who view ABS as an extra burden on the many processes they have to follow to export resources to appreciate benefits from ABS process. There is also need to train further stakeholders on ABS contracts and negotiation. Training is also required on high level officials who approve most of the export permits to understand ABS issues and what is expected of them. Malawi also would like to train officials in trade and customs to create an awareness and inform them of their responsibilities in ABS when it comes to boarder control and monitoring of GR movement. Capacity building on valuation or involvement of experts who can effectively value of GR is required to ensure that during negotiations, the value of GR is well catered for. Finally, there is need for Malawi to identify and train check points, or personnel responsible for issuing permits, communities and all stakeholders along the value chain.

Malawi has found the allocation of an expert to assist it in developing ABS contracts very helpful as it allows us to have on the job training. However, also, since the ABS contracts are new in many countries, opportunities to exchange information and share notes are also helpful for countries.

Technology transfer, collaboration and cooperation (Article 23)

59. Is your country collaborating and cooperating in technical and scientific research and development programmes as a means to achieve the objective of the Protocol as provided in Article 23?

Yes

Please provide a summary of the measures taken

In the current MAT's under development, technology transfer has been included as one of the benefits that the country will get from use of its genetic resources. Most institutions that conduct research in Malawi are also required, as a condition to getting a research permit, to partner with local researchers which encourages cooperation. At the moment, a number of research institutions benefit from cooperating with foreign research institutions including benefiting from technology transfer. It would however be important to determine which of those initiatives involve use of Malawi's genetic resources.

Use the text entry to provide further information

It is not easy to determine what kind of technology transfer is enough or to what extent the technology should be transferred to the provider of the genetic resources. Most of the resources being transferred out of the country, are transferred because of lack of the technologies required to develop them in the country. However, the technology transferred back is small scale and not enough to promote the country's bio-innovation. The question therefore is how much technology? who should transfer the technology? How and for what?

Optional additional information

60. Please provide a summary of the main difficulties and challenges encountered for becoming a Party to the Nagoya Protocol.

The ratification of the Nagoya Protocol for Malawi has helped the country to come up with best ways of ensuring benefits and utilizing the benefit sharing mechanism as an incentives for communities to sustainably utilize and conserve biodiversity. Although this is the case, the country realizes the need to establish a formal administrative and regulatory system to enable us to meet our obligations and preserve our resources and also the need to build capacity of relevant stakeholders which will require a lot of financial and human resources to implement.

However, Malawi is determine to put up such a system hence the commencement of the process to develop Access and Benefit Sharing guidelines using government resources. Later, the country will develop Access and Benefit Sharing regulations which will be supported under GEF 6 and will seek further co-financing to complete the process. The country has developed a road map to guide further implementation of the Nagoya Protocol and will continue to mobilize resources and financial support to effectively implement the protocol and specifically build capacity and raise awareness of stakeholders.

61. Has your country established a mechanism for budgetary allocations of funds for the implementation of the Nagoya Protocol?

Yes

Please provide further information

ABS is allocated an amount in the National Budget though it is too small to adequately support the National Focal Point's administrative work.

Please provide a summary of the main difficulties and challenges encountered

Because of lack of understanding of the ABS issues, it is often not allocated more resources, specifically considering the initial obligations to be fulfilled

62. a) Has your country made financial resources available to other Parties or received financial resources from other Parties or financial institutions for the purposes of implementation of the Protocol as provided in Article 25?

Financial resources have been received

Yes

From other Parties

Yes

Please provide further information

GIZ (ABS Capacity Building Initiative) through support of a technical expert to assist Malawi on ABS contracts

From financial institutions

Yes

From the Global Environmental Facility

Yes

From the Nagoya Protocol Implementation Fund

Yes

62. b) Please provide information on experiences related to the mobilization of resources in support of the implementation of the Protocol.

The ABS Focal Point submitted ABS needs during the development of GEF 6 concept which was considered and has been allocated an amount. Although the resources allocated are limited due to competing needs, the amount allocated will be used to kick start the process of developing the ABS regulations for Malawi and capacity building activities. Further resource mobilization will be conducted to ensure the process is finalized by 2019 and awareness materials have been developed.

62. c) Please provide information on the status of funds mobilized in support of the implementation of the Protocol.

GEF 6 funds have just been approved but not disbursed yet.

63. Does your country have specific staff to administer functions directly related to the implementation of the Nagoya Protocol?

Yes

Please indicate how many

Less than 5

Please provide a summary of the main difficulties and challenges encountered

Most of the staff working on ABS issues have already other duties and ABS is additional duty to their portfolio.

64. Any other relevant information:

There is need to ensure that ABS contracts result in tangible benefits. There is a risk that ABS contracts can be developed and users can comply to them just to indicate that they are complying to legislation without really transferring tangible benefits to providers. There is therefore a need to seriously focus attention on capacity building on negotiation of contracts, specifically on determining benefits, as this is where the ABS issues can be enforced. Reporting issues and compliance issues are also very crucial once the resource has left the country and this is not easy to follow up where there is no good monitoring system.

Comments in the reporting format

66. Please provide any comment that you may have regarding the format of this report:

Some of the questions were not well phrased e.g Q.60
The questionnaire is useful as a checklist for development of guidelines and useful as a checklist for capacity building too.

 [ABSCH-NR-MW-238969-1](#)

Further Information

Questions about the Nagoya Protocol on Access and Benefit-sharing or the operation of the Access and Benefit-sharing Clearing-House may be directed to the Secretariat of the Convention on Biological Diversity.

Secretariat of the Convention on Biological Diversity

413 rue Saint-Jacques, suite 800
Montreal, Québec, H2Y 1N9
Canada
Fax: +1 514 288-6588
Email: secretariat@cbd.int