



**Statement**

European Plant Science Organisation  
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## **Implementing the Nagoya Protocol by national legislation in the countries of Europe**

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*Brussels, 03.07.2017*

**EPSO, while recognizing the importance of the Nagoya Protocol and of the values underlying it as well as the Convention on Biological Diversity, strongly asks the European Commission and the Member States to support the adoption of uniform legislation in the EU for the exchange and use of Plant Genetic Resources. Application of the multilateral system enshrined in the FAO International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) would subject these resources to the standardized material transfer agreement procedures, which are considered of key importance to sustain future research and breeding activities.**

The Nagoya Protocol was adopted by the Conference of the Parties to the Convention on Biological Diversity on 29 October 2010 and entered into force on 12 October 2014, 90 days after it was ratified by the 50<sup>th</sup> party. The European Union ratified the protocol with Council decision No 283/2014/EU, adopting it on behalf of the Member States, independently of the national ratifications. On 16 April 2014, the European Union adopted Regulation (EU) No 511/2014 to implement the Protocol and to enable Union-wide ratification of the Protocol. Regulation (EU) No 2015/1866 (“Reg. 2015/1866”) that entered into force on 09 November 2015 lays down detailed rules for the implementation of Reg. 511/2014 as regards the register of collections, monitoring user compliance and best practices.

The Nagoya Protocol has so far been ratified by 96 parties, most of which are from Africa, Latin America and South East Asia. Despite the ratification of the European Commission, only a limited number of European countries have so far ratified the Protocol, including 16 EU Member States ([www.cbd.int/abs/nagoya-protocol/signatories](http://www.cbd.int/abs/nagoya-protocol/signatories)).

The Nagoya Protocol covers all types of genetic resources, with the only exception of human ones, including plant, animal, forest, aquatic and microbial ones. The access to such resources and the benefit sharing deriving from their utilization that are defined in the Protocol are applied to all uses, including research and commercial utilization in the food, agricultural, cosmetic, pharmaceutical, and any other industrial sector.

The Nagoya Protocol and the EU Regulation for its implementation, however, recognize the existence of other international agreements that define rules for the exchange and utilization of genetic resources in specific sectors, such as the FAO International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)

and allows parties to follow these agreements if these do not run counter to the principles and objectives that constitute the Nagoya Protocol.

The ITPGRFA entered into force in 2004 and has so far been ratified by 136 countries, including all EU member states. Based on a standard Material Transfer Agreement (sMTA), the ITPGRFA has proven to be an effective frame for the exchange of plant genetic resources that, on the one hand, safeguards the rights of the holders of genetic resources and, on the other hand, allows for the effective sharing and utilization of these resources for research and/or breeding purposes in order to improve global food security and agricultural sustainability.

The Nagoya Protocol defines new and complex mechanisms for the negotiation and legal management of access and benefit sharing procedures that are based on bilateral agreements. These mechanisms are widely opposed to by the research and breeding communities, being considered inadequate for the exchange and utilization of PGRFA as they are expected to impose significant obstacles to the activities of small and medium sized organizations involved in plant breeding and/or research. On the other hand, the Nagoya protocol explicitly refers to the Access and Benefit-sharing established under the ITPGRFA as developed in full harmony with the CBD. Also, Article 4 states that nothing in the Nagoya Protocol should prevent Parties from implementing relevant international agreements.

Different Member Countries are currently in the process of defining the national legislation for the implementation of the Nagoya Protocol in light of the EU Regulation No 511/2014 that allows Member States to define the details of such implementation. Among the States that have already made their decisions in this area, Germany, Denmark, United Kingdom have explicitly excluded from the application of the procedures determined by the Nagoya Protocol all those genetic resources that are already exchanged and utilised in accordance with existing regulations such as the ITPGRFA. Even though the ITPRGFA, as of today, only covers 64 species deemed essential for human feeding, mostly cereal and forage crops, no restrictions exist for the utilization of the sMTA for other plant agricultural genetic resources (PGRFA) if member states wish to do so. The Netherlands and Germany, in the attempt to simplify and make uniform the exchange procedures, have already committed to the use of the sMTA for the exchange of all PGRFA that are under their control. Other countries, instead decided to develop and apply new specific access regimes to PGRFA, in alternative to the provisions of the Nagoya Protocol.

It is evident that the adoption of different procedures in different Member States will not facilitate the activities related to plant science research and plant breeding that is relying on simple procedures for the exchange of genetic resources in order to provide fundamental advances in agriculture and food production.

EPSO, while recognizing the importance of the Nagoya Protocol and of the values underlying it as well as the Convention on Biological Diversity, strongly asks the European Commission and the Member States to support the adoption of uniform legislation in the EU for the exchange and use of the PGRFA that would subject these resources to the material transfer agreement procedures envisioned in the International Treaty on Plant Genetic Resources for Food and Agriculture.

*This statement was developed by Michele Morgante and Andreas Graner based on the 2016-2017 EPSO Agricultural Technology Working Group meetings and the EPSO General Meeting 2016, approved by the EPSO Representatives in June 2017.*

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EPSO, the European Plant Science Organisation, is an independent academic organisation that represents more than 220 research institutes, departments and universities from 28 European countries, Australia, Japan and New Zealand, and 3.300 individuals Personal Members, representing over 28 000 people working in plant science. EPSO's mission is to improve the impact and visibility of plant science in Europe, to provide authoritative source of independent information on plant science, and to promote training of plant scientists to meet the 21st century challenges in breeding, agriculture, horticulture, forestry, plant ecology and sectors related to plant science. [www.epsoweb.org](http://www.epsoweb.org)