



VIETNAM ENVIRONMENT ADMINISTRATION  
BIODIVERSITY CONSERVATION AGENCY

# BioTrade-friendly Implementation of the Nagoya Protocol in Vietnam

*Dr. Nguyen Thanh Vinh  
Deputy Director  
Biodiversity Conservation Agency  
Vietnam Environment Administration*

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# OUTLINE

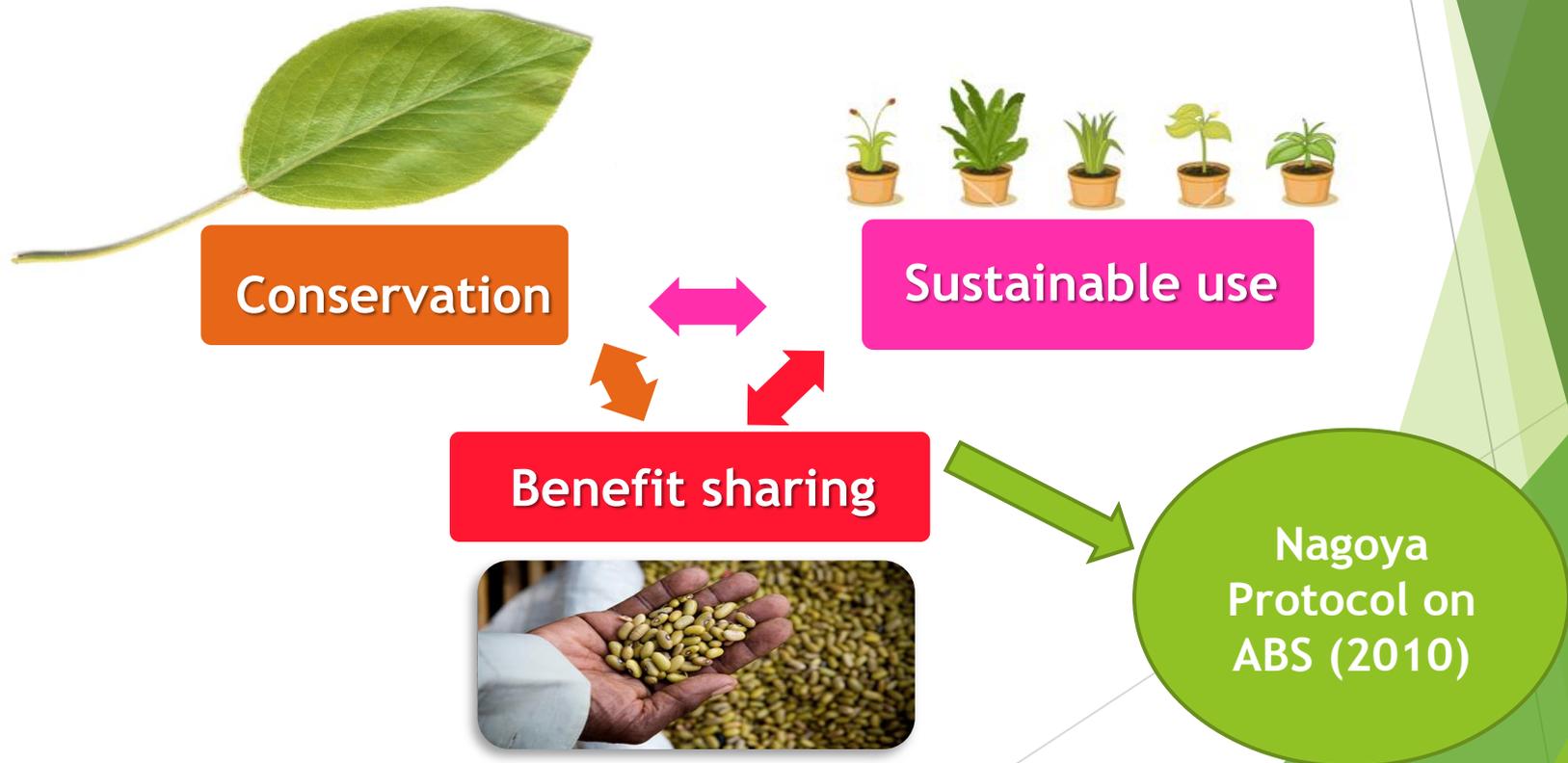
Part I: ABS regulatory framework in Vietnam

Part II. ABS - BioTrade interface: Vietnam case



# VIET NAM

- *Became a member to Convention on Biodiversity: 1992*
- *CBD targets: 3 targets*
  
- *Nagoya Protocol adopted 2010, Vietnam became a member in 2014.*



# Legal and policy framework

- Biodiversity Law (2008) – Decree 65/2010 that include basic principles on ABS:
  - Scope: activities involved with GRs;
  - Institutional arrangement: for granting access (prioritised for protection species and non-priority species) and management of resources (conservation units, protected areas, owned facilities, commune-level authorities);
  - Procedure for PIC, MAT: basically set out, include 4 major steps;
  - Benefit sharing: to be negotiated in the contract (monetary and non-monetary);

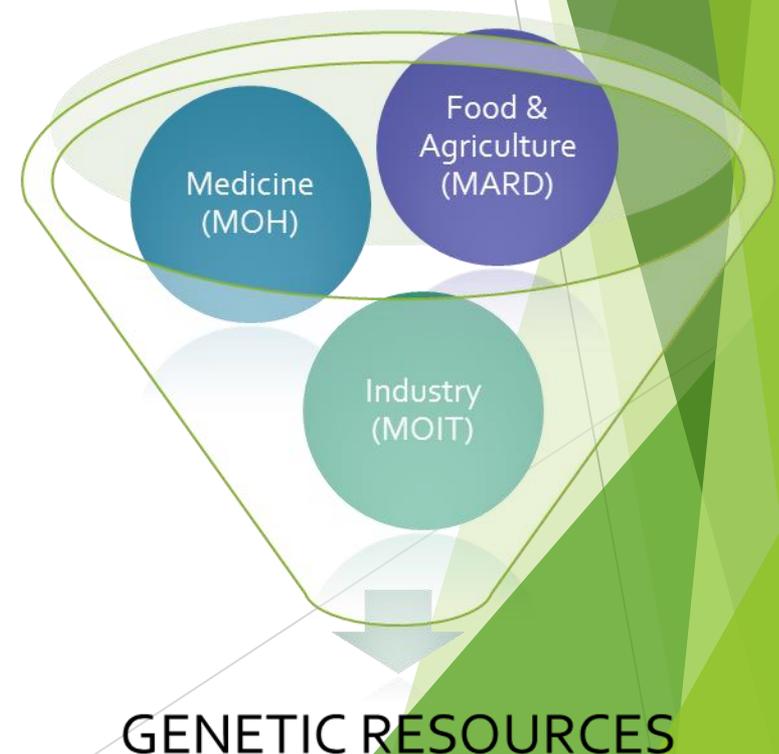


*IN brief, the ABS regulatory provisions in Vietnamese law is In alignment with the principles of the Nagoya Protocol on ABS, but needs more details.*

# Competent authorities

- Ministry of Natural Resources and Environment (MONRE) (with biodiversity Conservation Agency formed in 2008): biodiversity management (including ecosystems, GRs and species)
- Grant permits for prioritized for protection species;
- Provincial People's Committee grant permits for the vast majority;

Decree 21/2013/NĐ-CP at Article 2.8k:  
*MONRE shall be responsible for providing guidance to the management, monitoring of access to GRs and associated TK, usage of benefits shared back from utilization of GRs; development of national database on GRs, GMO and genetic materials; ..."*



# ABS LAW AND POLICY IN VIET NAM

However, implementation encountered some challenges in reality:

- Administrative procedures for granting ABS permit, implementing ABS agreement and sharing of benefits not detailed enough; lack of technical guidance for implementation, negotiations of ABS agreement;
- Decentralisation to provincial government authorities do not seem to work sufficiently;
- Lack of understanding on ABS by State management authorities at provincial levels, GR holders (communities..), researchers, in-country users...
- Lack of tools for compliance and enforcement;
  - Benefit sharing mechanism yet to be operational and show results
  - Database on GRs and TK scattered, causing difficulties for management.



# Tasks we need to do

- ▶ Supplement and complete ABS legal documents and policies
  - ▶ Study, supplement and finalize current documents;
  - ▶ Revise and update international experience and related guidance;
- ▶ Building capacity and raising awareness at all levels for stakeholder groups on below issues:
  - ▶ Grant license;
  - ▶ Negotiate ABS agreement;
  - ▶ Check point, monitor,...
- ▶ Gradually building database and sharing information on genetic resources and ABS;
- ▶ Mobilize international financial and technical resources;
- ▶ Implement public-private cooperation model for the implementation of ABS framework.

# Resolution No.17/NQ-CP by the Government of Vietnam in March,2014 on acceding the Nagoya Protocol:

- Task number 1: *Program on capacity building on managing access to genetic resource and benefit sharing period 2016-2025* (Approved by the Prime Minister, Decision No.1141/QD-TTg of the Prime Minister on June 27, 2016).
- Task number 2: *Decree on Management of Access to and Sharing of benefit arising from utilisation of GRs* (submitted to Government in November, 2016)

## **PART II.**

# **ABS - BioTrade interface: Vietnam case**

# ABS DECREE (draft)

## *Principles of managing access to genetic resources and sharing of benefits arising from the use of genetic resources (Article 4)*

- Vietnam has national sovereignty and sovereign right for all genetic resources the territory, territorial marine waters and its economic exclusive zone under national jurisdiction of Vietnam
- Activities of access to genetic resources of foreign organizations and individuals in the territory and waters under national sovereignty and sovereign right of Vietnam is only implemented when national competent authority approves and grants license.
- The sharing of benefits arising from the use of genetic resources must ensure the principles of fair and equitable sharing between all relevant parties and contribution to conservation and sustainable use of biodiversity, focusing on the role of local communities in the conservation and sustainable use of genetic resources, including traditional knowledge associated with genetic resources.
- The access to traditional knowledge associated with genetic resources must ensure to obtain the approval from local communities who own the traditional knowledge.
- To encourage organizations and individuals in the country to conduct research and development of genetic resources to contribute to the conservation and sustainable use of biodiversity.

# ABS DECREE (draft)

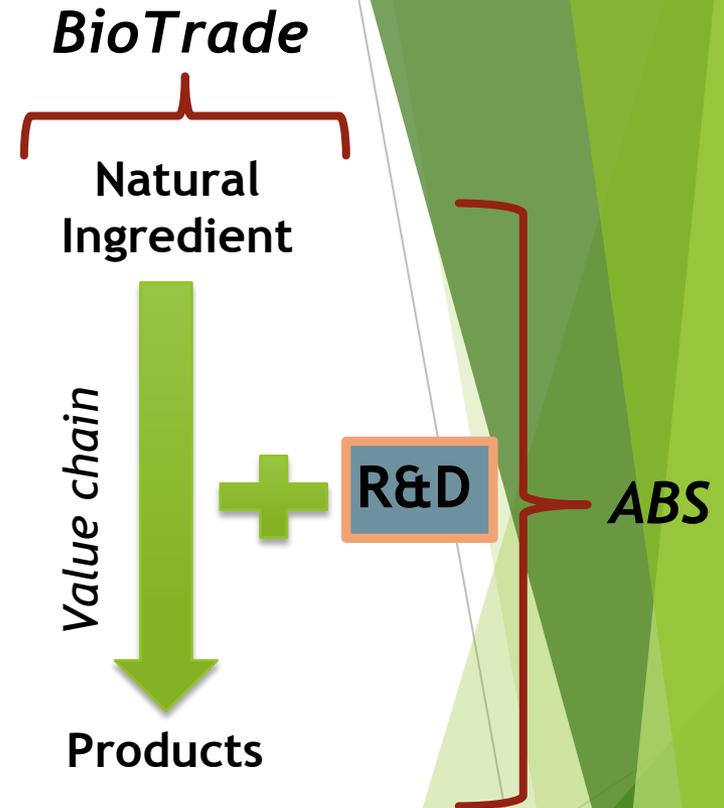
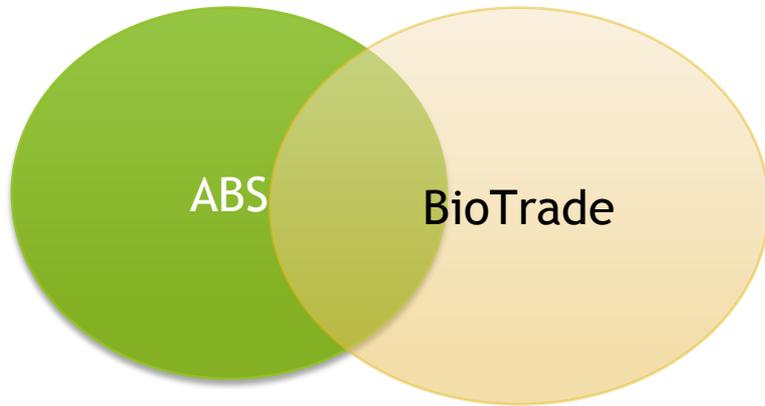
## Interpretation of terms (Article 3)

- *Biotechnology*: means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.
- *Derivative*: means a naturally occurring biochemical compound resulting from the genetic expression or metabolism of biological or genetic resources, even if it does not contain functional units of heredity.
- *Utilization of genetic resources*: means to conduct research and development on the genetic and/or biochemical composition of genetic resources, including through the application of biotechnology.

# ABS DECREE (draft)

- **Scope of regulation (Article 1):** This Decree prescribes activities of access for utilization of genetic resources, and sharing of benefits arising from the utilization of genetic resources and traditional knowledge associated with genetic resources
- **Regulated entities (Article 2):** This Decree applies to organizations, individuals in the country, foreign organizations carrying out activities related to access to and utilization of genetic resources in the national territory and the marine water under sovereign rights and jurisdiction of the Socialist Republic of Vietnam.

# Interlink between ABS and BioTrade



*Only BioTrade activities that involve R&D activities have to undertake the licensing procedure required by the ABS Decree.*

## SUPPORT OF UNCTAD FOR VIETNAM DURING LEGISLATION DEVELOPMENT PROCESS

In 2015-2016, UNCTAD has supported BCA:

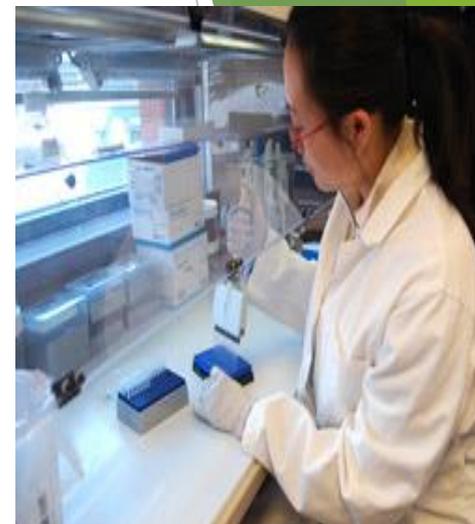
- Capacity building activities on BioTrade issues and the Nagoya Protocol implementation; promoting understandings on the intersection between ABS and BioTrade;
- Capacity building workshop held in June 2016
- Support to development of the Report “The interface between Access and Benefit Sharing rules and BioTrade in Viet Nam”
- Provision of technical assistant and international expertise during development of new ABS Decree

# CHALLENGES

- Lack of experience to implement ABS agreement and negotiation, granting ABS license;
- Challenges for BioTrade activities in Viet Nam in terms of awareness of consumers and government authorities in Viet Nam;
- Differences in the scope of activities between Nagoya Protocol and ABS laws of Viet Nam and the BioTrade program; for more comprehensive BioTrade-friendly ABS legislation, it is needed to wait till the Biodiversity Law Revision in 2018 expectedly.

## RECOMMENDATIONS

- Provide assistance to MONRE to develop technical guidelines particularly for BioTrade companies, more detailed guidance on implementation of the ABS Decree;
- Continue cooperation on capacity building with Government Agencies (MONRE, MARD...), BioTrade companies to implement the new Decree;
- Enhance BioTrade company network in Vietnam and their compliance to the ABS- regulatory framework.
- Strengthen cooperation with government focal point on ABS to create BioTrade friendly environment for BioTrade companies more sufficiently.



**THANK YOU VERY MUCH**

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