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Ahmed Djoghlaif
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Subject: Development of an Explanatory Guide to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity

Dear Mr. Djoghlaif,

In response to CBD Notification no. 2010-217 in which international organizations among other stakeholders are invited to submit views and other information in preparation for the first meeting of the Intergovernmental Committee for the Nagoya Protocol on Access and Benefit Sharing, it is my pleasure to inform you about one particular activity that IUCN is developing in order to assist capacity development and strengthening understanding about the Protocol's legal provisions and obligations to the Parties.

The adoption of the Protocol is a huge step forward in the implementation of the CBD, making Nagoya one of the most successful meetings in the CBD history to date. Indeed the Protocol creates an international framework which provides for concrete measures, rules and procedures to implement the CBD's third objective, access to genetic resources and fair and equitable benefit-sharing (ABS).

A clear comprehension of the text of the ABS Protocol and the resulting obligations for the contracting Parties as well as ABS procedures is of essential importance for the future implementation of the Protocol at the national level. This is particularly true for developing countries with relatively fewer resources and capacities for implementing complex environmental treaties and a lack of national ABS frameworks.

IUCN will contribute to facilitate such understanding through the development of an explanatory guide to the Nagoya ABS Protocol. Under the coordination of the IUCN Environmental Law Centre and IUCN's Global Policy Unit, the guide will be prepared by a core team of leading ABS experts from around the globe, in consultation with an Advisory Group and in liaison with the CBD Secretariat as appropriate.

Introduction and Background

Conscious of the immense strategic, economic and social value of genetic resources as well as traditional knowledge associated with genetic resources, and the development opportunities that they offer to our populations and to the international community, and given that the Nagoya ABS Protocol comprises complex legal and policy concepts that are highly technical and difficult to understand, there is a great

need for explanation of this new legal instrument in order to assist Parties in its implementation. In light of the complexity of the Nagoya ABS Protocol, its Article 18.4 (a) expressly calls upon the Contracting Parties to the Protocol to build and/or further develop “*capacities to implement and to comply with the obligations of, this Protocol*”.

The IUCN Environmental Law Centre (ELC) and the IUCN Global Policy Unit (GPU) stand ready to support such capacity building through the development of an ***Explanatory Guide to the Nagoya ABS Protocol***.

The IUCN Environmental Law Centre (ELC) draws from its great experience of working in the area of ABS for nearly two decades. Recently, a major project on ABS was successfully accomplished which included extensive ABS research and capacity-building activities and provided technical legal input and advice to ongoing international processes. This project has concluded in the publication of a comprehensive five-volume ABS Series which has been translated in three languages.

Apart from the ABS Series, the ELC has produced a number of legal guides for the development of national legal frameworks for biodiversity conservation and ABS, including *A Guide to Undertaking Biodiversity Legal and Institutional Profiles*; *A Guide to Designing Legal Frameworks to Determine Access to Genetic Resources*; or *Accessing Biodiversity and Sharing the Benefits: Lessons from Implementing the Convention on Biological Diversity*. Based on this expertise, an ABS course book and related training materials were developed for a series of ABS trainings in the three Southern Caucasus States Georgia, Armenia and Azerbaijan.

In addition, the ELC has developed so called explanatory guides on specific international conventions and treaties related to the CBD or the issue of ABS, including *A Guide to the Convention on Biological Diversity*; *The Explanatory Guide to the Cartagena Protocol on Biosafety*; and *The Explanatory Guide to the International Treaty on Plant Genetic Resources for Food and Agriculture*.

Being the IUCN focal point for ABS, projects and activities on ABS remain high on the ELC's agenda of work for the coming years. Currently, the ELC is advising different governments on the development of ABS related strategies as well as national legislation, and planning ABS trainings for ABS stakeholders.

The Global Policy Unit, the unit that acts as the focal point for the Convention within IUCN, has followed the discussions and negotiations of ABS throughout the years and has coordinated IUCN's inputs into this process. Under the coordination of the GPU, IUCN has supported the preparation of position papers presenting policy recommendations on ABS to the CBD Contracting Parties.

Objective and Outcomes

Our main objective is to build and enhance the capacity of Parties for implementing the Nagoya ABS Protocol through the development of a concise explanatory guidebook which improves the understanding of the Protocol text, obligations, commitments and structures, as well as its relationship with other specialized ABS instruments. We envisage the inclusion of text boxes with practical examples of ABS legislation and case studies as well as related information from experiences in the implementation of ABS by different stakeholders and sectors. We are inviting a good number of experienced ABS lawyers and practitioners with different backgrounds and perspectives to collaborate in the development of the guidebook so as to ensure that we bring a broad spectrum of viewpoints and ideas into the guide.

The main outcomes can be summarized as follows:

- Publication of an Explanatory Guide to the Nagoya ABS Protocol in English:

This Explanatory Guide will not only explain the Protocol text, but more importantly the implications for implementation of each specific article. Like previous ELC explanatory guides, this ABS guide will present international environmental law in a way that connects it with realities on the ground and facilitates implementation at the national and sub-national levels.

- Translation of the Explanatory Guide into Spanish and French:

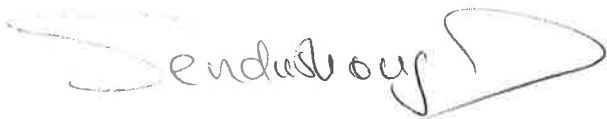
Such translation will be highly important to facilitate the global utilization of this Explanatory Guide and therefore the global implementation of the new ABS regime.

- Presentation, review and launch of the Explanatory Guide (as well as its advanced drafts) at relevant meetings, in particular the meetings of the Open-ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (the Intergovernmental Committee), and the CBD COP 11.

- **Note:** Other capacity building/development activities are being considered to support the development of the explanatory guide pending on the availability of funds.

For more information regarding this initiative please contact Mrs. Sonia Peña Moreno, Biodiversity Policy Officer, Global Policy Unit at sonia.pena-moreno@iucn.org, and Mr. Thomas Greiber, Senior Legal Officer, Environmental Law Centre at thomas.greiber@iucn.org.

With best wishes,

A handwritten signature in black ink that reads "Sendashonga". The signature is written in a cursive style with a large, sweeping flourish at the end.

Cyrie Sendashonga

Director
Programme & Policy Group