

## **Identification of capacity-building needs for implementation of the Nagoya Protocol (BURUNDI)**

### **I. INTRODUCTION**

The Convention on Biological Diversity, adopted in June 1992, sets out the international community's commitment to sustainable development. They target three objectives, namely the conservation of biological diversity, the sustainable utilization of its component and fair and equitable sharing of benefits arising from the utilization of genetic resources. Following the ratification of this convention by 193 country parties including Burundi, commendable efforts have been made to implement these objectives especially objectives 1 and 2. However, the 3rd objective has not been implemented sufficiently; this has led to discussions among the international community during several conferences of the parties to the convention and the setting up of a working group to negotiate an international regime for Access to genetic resources and the fair and equitable Sharing of the Benefits arising from their utilization (ABS). The working group presented their report at the tenth conference of the parties to the convention held in Nagoya in October 2010 and the so-called Nagoya Protocol was adopted.

However, an international regime alone cannot assist the implementation of all the ABS objectives. It needs to be complemented by adequate regional, sub-regional and national measures. It is vital that each country institute measures promoting ABS to better assist biodiversity management on their territory, avoid it being used without their consent and actually benefit from the benefits arising from development.

Burundi has been a party to the convention since 1997 and like several other countries, commendable efforts have been made to implement convention objectives ; however, there has been little progress regarding objective 3 on Access to genetic resources and the fair and equitable Sharing of Benefits arising from their utilization.

In the framework of implementing the third objective of the Convention of Biological Diversity adopted in Rio (Brazil) in 1992, the international community has recently adopted the Nagoya Protocol. Against this background, Burundi would like to join the international community to start implementing the Nagoya Protocol as soon as possible and thus take part in sustainable development.

The question of access to biological/genetic resources and sharing of the benefits arising from their utilization (ABS) represents both an asset and a challenge. It is an asset to the extent that it involves promoting long-term goals for conservation, sustainable utilization and socio-economic well-being thanks to incentive measures related to trade, markets and the use of modern technology. It is also a challenge in

the sense that it involves formulating and agreeing on legal mechanisms, methods and policies aimed at providing a practical reality to the ABS concept.

With this in mind, Burundi wanted to set up legal, institutional and operational mechanisms with the aim of regulating access and the fair and equitable sharing of benefits arising from the utilization of biological and genetic resources (ABS).

The political will is there, but the country does not have the capacity to implement it. This is why the country is submitting their capacity-building requirements to the CBD Secretariat so they can honour their commitments towards the convention on one side and towards the Nagoya Protocol on the other, which they will be ratifying in the near future.

## **II. ABS STATUS IN BURUNDI**

### **II.1. At international level**

The « ABS » concept was born with the advent of the Convention on Biological Diversity. In a global sense, it aimed at reconciling scientific and commercial interests, the source of genetic resource development, with the goals of equity and social justice for the benefit of those people who conserve or who are at the origin of the genetic resources and associated traditional knowledge. The main objective is to regulate access and make it mandatory to share benefits with the countries who supplied the genetic resources used. The evolution and status of the ABS concept at international level is divided into phases:

- The period before the adoption of the Bonn guidelines ;
- The adoption of the Bonn guidelines ;
- The negotiating period for the international ABS Regime ;
- And the period after adoption of the Nagoya Protocol.

### **II.2. At regional level**

Countries in the COMIFAC space, including Burundi, have just adopted a strategy to help guide each country when formulating a National Regime for Access and Benefit-Sharing (ABS), which takes into account, *inter alia*, protection of Traditional Knowledge, Innovation and Practices (TKIP) of Indigenous and Local Communities in accordance with local realities and provisions of the Convention on Biological Diversity.

### **II.3. In Burundi**

There is an array of legal instruments in the area of biodiversity, especially :

- Executive order n° 1/6 of 3 March 1980 setting up the National Parks and Nature Reserves ;

- Decree n° 100/007 of 25 January 2000 setting the delimitation of the National Park and four Nature Reserves ;
- Executive Order n°1/ 010 of 30 June 2000 establishing the Environmental Code for the Republic of Burundi ;
- Law n° 1/02 of 25 March 1985 creating the Forestry Code ;
- Executive order n° 1/032 of 30 June 1993 on the production and marketing of plant seeds in Burundi ;
- Executive order n° 1/9 of 4 May 1978 on regulation of copyright and intellectual property in Burundi ;
- Draft legislation on modes of governance for protected areas and incentive measures for maintaining the integrality of protected areas (already adopted by the government and submitted to the national assembly).

All these legal instruments were formulated with a centralized method and do not take account of the interests of indigenous and local communities. The environmental code contains a few aspects on the ABS concept but no implementing text.

Burundi is still not equipped with national legislation for access and sharing of benefits arising from the utilization of genetic resources.

In this situation, How do we access biological resources?

Biological resources are exploited for multiple needs: food, pharmaceutical, trade and other services. In addition to farming and livestock production, which provides most food requirements for the population, harvesting of wild, edible plant products involves more than 32 plant species and 32 mushroom species already inventoried. The most targeted animal resources for food are mammals, reptiles and amphibians. Some invertebrates notably termites are also eaten. Bees are exploited for honey production. Special mention should be made of fishing particularly in Lake Tanganyika with production of 20 to 25 thousand tons of fish per year.

More than 800 plant species have been identified and used for traditional medicine requirements. Medical animal products involve more than 50 species. Some animal species are also exported for ornamental purposes for decorating houses and making certain objects. More than 25 fish species from Lake Tanganyika are marketed across the world to aquarists.

Burundi has no specific regulations for access to biological resources. Surveys carried out on medicinal plants and other products show two kinds of access mechanism to biological resources:

- Clandestine access
- Access using a harvesting or fishing permit issued by the competent authorities.

For national researchers, simple permits or authorization without tax, issued by INECN to the state institution requesting it are common practice or access rights to

protected areas are granted without providing specifics on the work to be carried out and results to be achieved.

Local communities cannot access products from protected areas owing to the use of police measures. This leads to clandestine harvesting and permanent conflict between these communities and conservators.

Clearly, Burundi needs legislation on access and the sharing of benefits arising from the utilization of genetic resources and both institutional and human capacity building to implement the Nagoya Protocol.

### **III. OPERATIONAL FRAMEWORK FOR ABS CAPACITY BUILDING**

#### **III.1. OBJECTIVE**

The promotion of fair and equitable sharing of benefits arising from the utilization of genetic resources which takes into account, among other, the protection of traditional Knowledge, Innovation and Practices (TKIP) of Aboriginal and Local Communities (ALC) in accordance with local realities and the provisions of the Convention of Biological Diversity.

#### **III.2. Specific Objectives**

- Defining the national ABS strategy ;
- Implementing ABS national legislation ;
- Identification and analysis of the stakeholders;
- Examination of transborder ABS issues ;
- Implementation of a national strategy for genetic resources development;
- Creation of administrative and institutional structures
- Traditional knowledge (TK).

### III.3. Priority capacity-building measures in the framework of the Nagoya Protocol

Objective	Expected results	Activities	In charge	Budget estimate (US dollars)
Defining the national ABS strategy ;	A national ABS in operation	Carry out an inventory and analysis of regulations in force, institutional arrangements, resources and opportunities.	INECN ( <i>Institute National pour l'environnement et la conservation de la nature</i> [English: Institute for nature conservation and the environment])/CBD FP and ABS FP	300.000
		Analyse the relationship between the Nagoya Protocol and national policies in force.		
		Undertake consultations and exchanges with the stakeholders		
		Strengthen the institutions to formulate an ABS strategy and ensure its integration into other strategies.		
		Formulate communication strategies through multimedia approaches and other awareness raising tools.		
		National consultative workshops for the multiple stakeholders for clarification and to raise awareness of the ABS issue and thus help set up a national ABS strategy.		
Implementation of national legislation administrative procedures	National ABS legislation formulated	Analyse regulations linked to ABS at different levels.	INECN/CBD FP and ABS FP	220.000
		Initiate consultations with the stakeholders before adoption of the ABS regulations.		
		Assess existing political bases and institutional capacity, as well as implementation mechanisms in other frameworks linked to biodiversity		
		Draft typical Agreement specimens		

		<p>Design <i>Sui generis</i> systems ;</p> <p>Formulate safeguarding mechanisms for biological/genetic resources.</p> <p>Formulate administrative measures promoting compliance with CPCC and CCCA</p> <p>Formulate legal measures promoting compliance with CPCC and CCCA</p> <p>Formulate modalities for access and benefit-sharing</p> <p>Formulate mechanisms for dispute settlement</p> <p>Formulate ABS legislation</p> <p>Formulate procedures to monitor compliance with ABS-related arrangements</p> <p>Define a manual determining the ABS process stages</p>		
<p>Identification, sensitization and analysis of the stakeholders;</p>	<p>The stakeholders identified and analysed</p>	<p>Identify the relevant stakeholders.</p> <p>Sensitize the relevant stakeholders on ABS.</p> <p>Define the roles and responsibilities of each relevant stakeholder.</p> <p>Develop communication channels among the various stakeholders</p> <p>Develop action plans for the involvement and participation of the relevant stakeholders.</p> <p>Set up stakeholder committees or fora.</p> <p>Formulate a guide for stakeholder consultation and participation (private sector, teaching institutions, competent institutions and organizations from local and indigenous communities, and NGOs).</p> <p>Formulate directives to ensure national participation from local and indigenous communities at all decision-making levels.</p> <p>Undertake training measures in the ABS field ;</p>	<p>INECN/CBD FP and ABS FP</p>	<p>50.000</p>

		Train stakeholders on ABS negotiation techniques;		
		Improve stakeholder knowledge of conventions, norms and policies relating to intellectual property and trade rights;		
		Organize study trips		
		Prepare an ABS expert file		
Creation of administrative and institutional structures		Set up ABS committees and cells at national level.	INECN/CBD FP and ABS FP	20.000
		Set up competent national authorities (with participation from CALS and other stakeholders)		
		Provide information to the CBD/Protocol clearing-house mechanism		
		Set up control points.		
Consideration of traditional knowledge (TK)		Identify and document TK, including customary rights and access rules.	INECN/CBD FP and ABS FP	70.000
		Develop TK guidelines, in particular regarding TK access and the structures defined at all levels.		
		Develop multi-ethnic protocols for a better understanding of TK and for negotiation purposes.		

		Increase awareness-raising and capacity-building activities for communities, relevant ministries, stakeholders and agencies.		
		Ensure national legislation protects TK and establishes access rules.		
		Develop the negotiation capacities and expertise of communities.		
Consideration of transborder issues		Assess the effectiveness of Protocol provisions for transborder genetic resources and TK.	INECN/CBD FP and ABS FP	50.000
		Establish various transborder ABS mechanisms.		
		Set up mechanisms for sharing information among partners (research, States, CALs etc.).		
		Set up transborder research structures to examine issues linked to transborder genetic resources and TK.		
		Establish transborder cooperation among States, CALs for protecting genetic resources and TK.		
		Assess regional arrangements in force.		
Setting up a development strategy	Development strategy	Carry out the inventory of genetic resources and associated traditional knowledge, innovations and practices and assess the potential market	INECN/CBD FP and ABS FP	20.000
		Develop national strategies to promote the use of biodiversity for economic valorization and development.		

		Identify the financial resources for development activities.		
		Ensure ABS is integrated into the NBSAP (National Biodiversity Strategies and Action Plans) process and other national plans.		
		Identify trade opportunities in the relevant sectors and incorporate them into the ABS strategy.		
		Identify the commercial value of biodiversity and communicate this information to bioprospectors.		
Management and monitoring	Efficient management	Report formulation	INECN/CBD FP and ABS FP	15.000
TOTAL				745.000