



## Convention on Biological Diversity

Distr.  
GENERAL

UNEP/CBD/ICNP/1/4  
5 May 2011

ORIGINAL: ENGLISH

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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

First meeting

Montreal, 5-10 June 2011

Item 4 of the provisional agenda\*

**MEASURES TO ASSIST IN THE CAPACITY-BUILDING, CAPACITY DEVELOPMENT AND  
STRENGTHENING OF HUMAN RESOURCES AND INSTITUTIONAL CAPACITIES IN  
DEVELOPING COUNTRIES AND PARTIES WITH ECONOMIES IN TRANSITION**

*Note by the Executive Secretary*

### I. INTRODUCTION

1. The Conference of the Parties (COP) at its tenth meeting held in October 2010 mandated the Intergovernmental Committee for the Nagoya Protocol (ICNP) to consider, at its first meeting, “measures to assist in the capacity-building, capacity development and strengthening of human resources and institutional capacities in developing countries, in particular the least developed countries and small island developing States amongst them, and Parties with economies in transition, taking into account the needs identified by the Parties concerned for the implementation of the Protocol (Article 22).”<sup>1</sup>

2. In paragraph 17 of decision X/1, the Conference of the Parties invited developing country Parties as well as Parties with economies in transition to make available to the Executive Secretary, no later than two months prior to the first meeting of the Intergovernmental Committee, information regarding their needs in relation to capacity-building, capacity development and strengthening of human resources and institutional capacities in order to effectively implement the Protocol. By notifications 2010-216 and 2010-217,<sup>2</sup> of December 2010, Parties, international organizations, indigenous and local communities, and relevant stakeholders were invited to submit views on measures to assist in the capacity-building, capacity development and strengthening of human resources and institutional capacities in developing countries, and countries with economies in transition.

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\* UNEP/CBD/ICNP/1/1/Add.1.

<sup>1</sup> Decision X/1, annex II, section A, item 2

<sup>2</sup> SCBD/ABS/VN/SG/74553.

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3. As of 8 April 2011, the Secretariat had received submissions from the following countries and organizations: Argentina, Burundi, China, Ecuador, European Union, Guinea, India, Mexico, Morocco, Nigeria, Thailand, Togo, Vietnam, the Amazon Cooperation Network (REDCAM), the Assembly of First Nations (AFN) as well as a joint submission from the Maritime Aboriginal Peoples Council and IKANAWTIKET Environmental Incorporated, the Native Council of Nova Scotia, the Native Council of Prince Edward Island, the New Brunswick Aboriginal Peoples Council and the Congress of Aboriginal People. These submissions are available at: <http://www.cbd.int/icnp1/submissions/> and a synthesis is provided in an information document (UNEP/CBD/ICNP/1/INF/3).

4. The present document has been prepared by the Executive Secretary to assist the Intergovernmental Committee in its consideration of this issue. Section II of the document offers an overview of the capacity-building and development provisions of the Nagoya Protocol. Section III summarizes the access and benefit-sharing (ABS) capacity-building initiatives carried out under the Convention as well as initiatives undertaken by other actors. Section IV addresses the views and information provided in relation to capacity-building and development. Section V presents capacity-building measures and approaches under other multilateral environmental agreements (MEAs), namely under the Cartagena Protocol on Biosafety and the International Treaty for Plant Genetic Resources for Food and Agriculture (ITPGRFA). Section VI provides some conclusions and considerations for a strategic approach to capacity-building, capacity development and strengthening of human resources and institutional capacities in order to effectively implement the Protocol. Section VII identifies issues for consideration by the Intergovernmental Committee.

## **II. CAPACITY-BUILDING AND DEVELOPMENT UNDER THE NAGOYA PROTOCOL ON ACCESS AND BENEFIT-SHARING**

5. Article 22 of the Nagoya Protocol addresses capacity-building and development of developing country Parties and Parties with economies in transition to effectively implement the Protocol. In addition, Article 21 on awareness-raising and Article 25 on the financial mechanism and resources are also relevant in considering measures to assist in capacity-building and development to implement the Nagoya Protocol.

6. Article 22, in its paragraph 1, provides that Parties shall cooperate in the capacity-building, capacity development and strengthening of human resources and institutional capacities to effectively implement this Protocol in developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition, including through existing global, regional, subregional and national institutions and organizations. In this context, Parties should facilitate the involvement of indigenous and local communities and relevant stakeholders, including non-governmental organizations and the private sector.

7. Paragraph 3 of the same article provides that “as a basis for appropriate measures in relation to the implementation of this Protocol, developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition should identify their national capacity-building needs and priorities through capacity self-assessments. In doing so, such Parties should support the capacity needs and priorities of indigenous and local communities and relevant stakeholders, as identified by them, emphasizing the capacity needs and priorities of women.” As mentioned in paragraph 2 above, Parties were invited by decision X/1 to make available their capacity-building needs to the Executive Secretary.

8. Article 22, paragraph 4 provides, that “in support of the implementation of this Protocol, capacity-building and development may address, *inter alia*, the following key areas:

- (a) Capacity to implement, and to comply with the obligations of this Protocol;
- (b) Capacity to negotiate mutually agreed terms;

(c) Capacity to develop, implement and enforce domestic legislative, administrative or policy measures on access and benefit-sharing; and

(d) Capacity of countries to develop their endogenous research capabilities to add value to their own genetic resources.”

9. Article 22, paragraph 5, provides that “measures in accordance with paragraphs 1 and 4 above may include, *inter alia*:

(a) Legal and institutional development;

(b) Promotion of equity and fairness in negotiations, such as training to negotiate mutually agreed terms;

(c) The monitoring and enforcement of compliance;

(d) Employment of best available communication tools and internet-based systems for access and benefit-sharing activities;

(e) Development and use of valuation methods;

(f) Bioprospecting, associated research and taxonomic studies;

(g) Technology transfer, and infrastructure and technical capacity to make such technology transfer sustainable;

(h) Enhancement of the contribution of access and benefit-sharing activities to the conservation of biological diversity and the sustainable use of its components;

(i) Special measures to increase the capacity of relevant stakeholders in relation to access and benefit-sharing; and

(j) Special measures to increase the capacity of indigenous and local communities with emphasis on enhancing the capacity of women within those communities in relation to access to genetic resources and/or traditional knowledge associated with genetic resources.”

10. Paragraph 6 establishes that information on capacity-building and development initiatives at national, regional and international levels, undertaken in accordance with paragraphs 1 to 5 of Article 22, should be provided to the Access and Benefit-sharing Clearing-House with a view to promoting synergy and coordination on capacity-building and development for access and benefit-sharing.

11. In addition, articles of the Protocol related to financial resources and to awareness-raising are also relevant to capacity-building and development.

12. The Protocol recognizes that financial resources will be important to adequately support capacity-building and development needs. More specifically, Article 22, paragraph 2 provides that “the need of developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition for financial resources in accordance with the relevant provisions of the Convention shall be taken fully into account for capacity-building and development to implement this Protocol.” This provision is linked to Article 25 on the financial mechanism, in particular to paragraph 4.<sup>3</sup>

13. In addition, Article 25, paragraph 3, establishes that the need for financial resources of developing countries regarding the capacity-building and development referred to in Article 22 shall be taken into account by the Conference of the Parties serving as the meeting of the Parties to this Protocol

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<sup>3</sup> Article 25.4: “In the context of paragraph 1 above, the Parties shall also take into account the needs of the developing country Parties, in particular the least developed countries and small island developing States among them, and of the Parties with economies in transition, in their efforts to identify and implement their capacity-building and development requirements for the purposes of the implementation of this Protocol”.

(COP-MOP) in providing guidance with respect to the financial mechanism for the consideration by the Conference of the Parties.

14. The work plan of the Intergovernmental Committee set out in decision X/1 includes the elaboration of guidance for the financial mechanism, as well as the elaboration of guidance for resource mobilization to implement the Protocol. These two issues will be considered by the Intergovernmental Committee at its second meeting.

15. Awareness-raising activities also contribute to building and developing capacity, therefore the implementation of Article 22 on capacity and Article 21 on awareness-raising should be complementary and mutually supportive. It should be noted that the implementation of Article 21 is being addressed separately at this meeting under agenda item 5.

### **III. OVERVIEW OF PREVIOUS AND EXISTING ACCESS AND BENEFIT-SHARING CAPACITY-BUILDING INITIATIVES**

#### ***A. Under the Convention on Biological Diversity***

16. Capacity-building for access and benefit-sharing was first addressed by the fifth meeting of the Conference of the Parties to the Convention in 2000. In its decision V/26, the Conference of the Parties recognized that further capacity-building for access and benefit-sharing was needed and that key capacity needs included: (i) assessment and inventory of biological resources as well as information management; (ii) contract negotiation skills; (iii) legal drafting skills to develop access and benefit-sharing measures; and (iv) means to protect traditional knowledge associated with genetic resources.

17. The first meeting of the Ad-hoc Open-ended Working Group on access and benefit-sharing, which met in October 2001, considered the issue of capacity-building and requested the Executive Secretary, in consultation with the COP Bureau to convene an open-ended expert workshop. The expert workshop on capacity-building was held in December 2002 in Montreal and elaborated a draft Action Plan on Capacity-building for Access and Benefit-sharing (Action Plan). The Action Plan was subsequently adopted by the seventh meeting of the Conference of the Parties in February 2004 in decision VII/19 F.

18. The objective of the Action Plan is to facilitate and support the development and strengthening of capacities of individuals, institutions and communities for the effective implementation of the provisions of the Convention related to access and benefit-sharing and in particular the Bonn Guidelines.

19. The Action Plan identifies key areas requiring capacity-building. It suggests mechanisms, processes and measures to implement capacity-building in key areas through actions taken at international, national, regional, subregional and multiple levels. It also recognizes that capacity-building activities need to be coordinated among different actors and relevant international fora, in particular with the International Treaty on Plant Genetic Resources for Food and Agriculture and the World Intellectual Property Organization (WIPO), and it encourages Parties, Governments and relevant international organizations to make available through the clearing-house mechanism of the Convention steps taken towards the implementation of capacity-building measures.

20. Possible approaches to implement identified capacity-building activities are included in an appendix to the Action Plan to assist countries to establish national priorities and to facilitate regional and subregional activities, based on experience and past practice. At the international level, a number of actions are also identified. For ease of reference, the Action Plan is available in information document UNEP/CBD/ICNP/INF/5.

21. Following the adoption of the Action Plan, the Secretariat developed a database on capacity-building activities<sup>4</sup> for promoting coordination and supporting the sharing of information on

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<sup>4</sup> See <https://www.cbd.int/abs/projects.shtml>.

capacity-building initiatives. The database describes capacity-building projects, their objectives, activities and lessons learned, as submitted by Parties, Governments and relevant international organizations, including donors.

22. The Action Plan has not been reviewed since its adoption by the Conference of the Parties at its seventh meeting, in 2004, and its implementation has not been assessed. The negotiations of the international regime on access and benefit-sharing may explain the lack of attention given to its implementation.

23. Despite the efforts undertaken to build capacity to develop ABS national and regional frameworks, according to the ABS measures database,<sup>5</sup> approximately, only twenty-nine countries have a more or less comprehensive ABS legislative framework in place, and twenty countries have included ABS remarks or provisions in their national strategies or in their environmental or biodiversity legislation.

24. With the adoption of the Nagoya Protocol attention has now turned to its early entry into force and implementation. In decision X/1, paragraph 13, the Conference of the Parties requested the Executive Secretary to provide technical assistance to Parties, subject to the availability of financial resources, with a view to supporting the early ratification and implementation of the Protocol. In the same decision, the Conference of the Parties invited the Global Environmental Facility (GEF) to provide financial support to Parties to assist with the early ratification of the Nagoya Protocol and its implementation (paragraph 14).

25. As a result, the Chief Executive Officer of the GEF has taken immediate action to adopt a Medium Sized Project of US\$ 1 million implemented by the United Nations Environment Programme (UNEP) and executed by the Secretariat for the early entry into force of the Nagoya Protocol. This project is operational since April 2011. The Secretariat is carrying out a series of awareness-raising and capacity-building activities to support the early ratification and entry into force of the Nagoya Protocol. These activities include:

(a) Briefing sessions for key partners and stakeholders including high ranking government officials, national-level legislators and relevant United Nations bodies;

(b) Convening, in partnership with the United Nations Development Programme (UNDP), the Inter-Parliamentary Union and Globe International, briefings on the need for early ratification of the Nagoya Protocol in at least 100 parliaments of the world;

(c) Integration of an ABS component into regional and subregional National Biodiversity Strategies and Actions Plans (NBSAPs) workshops planned for 2011 and 2012; and

(d) Capacity-building workshops for ABS national focal points and indigenous and local communities organized back-to-back with the first and the second meetings of the Intergovernmental Committee and the seventh meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions. These workshops will be organized jointly with the Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture with a view to support the implementation of the Nagoya Protocol and ITPGRFA in a mutually supportive manner.

26. In addition, as announced at the high level segment of the tenth meeting of the Conference of the Parties, the Presidency of the tenth meeting of the Conference of the Parties has established a Japan Biodiversity Fund with an initial allocation of US\$ 10 million. Thanks to this fund, a number of capacity-building initiatives have been initiated through the convening of regional and subregional workshops on NBSAPs and the Nagoya Protocol.<sup>6</sup> Under the Japan Biodiversity Fund also and in partnership with the COP-10 Presidency, briefings on the Nagoya Protocol were made to the Permanent Missions at all United Nations chapters including New York, Geneva, Nairobi, Paris, Rome. Briefings

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<sup>5</sup> See <<https://www.cbd.int/abs/measures/>> as of March 2011.

<sup>6</sup> The list of workshops is available at [www.cbd.int](http://www.cbd.int).

will also be organized with the diplomatic representations at the headquarters of Economic Commissions of the United Nations Organisation (Bangkok, Beirut, Addis Abeba and Santiago de Chile)

**B. GEF portfolio on ABS capacity-building initiatives**

27. As the designated financial mechanism, GEF has been a consistent partner in supporting capacity-building activities on access to genetic resources and benefit-sharing. In February 1998, GEF and the Secretariat of the Convention jointly submitted a note addressing the fair and equitable sharing of the benefits arising out of genetic resources: options for assistance to developing country parties to the Convention on Biological Diversity.<sup>7</sup> As a result, the Conference of the Parties set out the scope of GEF support to access to genetic resources and benefit-sharing.<sup>8</sup>

28. The initial response of GEF was to integrate access and benefit-sharing measures in the enabling activity funding modality. For GEF-4 (2007–2010), biodiversity focal area strategy and strategic programming,<sup>9</sup> approved by the GEF Council in September 2007, established an operational programme on building capacity on access and benefit-sharing aimed at supporting the establishment of measures that promote concrete access and benefit-sharing agreements that recognize the core ABS principles of prior informed consent (PIC) and mutually agreed terms (MAT) including the fair and equitable sharing of benefits, consistent with the Bonn Guidelines on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising out of their Utilization and the related Action Plan on Capacity-building for ABS adopted under the Convention. This strategic programme was included in a suggested funding envelope of US\$ 90 million for generation, dissemination and uptake of good practices for addressing current and emerging issues in biodiversity.

29. However, requests for funding for access and benefit-sharing were limited. Nearly fifty countries included access and benefit-sharing in their national needs assessment projects, but only a few full-sized projects were proposed. These were approved only recently and involve one implementing agency, including:

(a) “Strengthening the implementation of ABS regimes in Latin America and the Caribbean” (2011-2014) (February 2010, UNEP) (US\$ 0.85 million from GEF grants and US\$ 0.95 million from co-financing). This projects aims to increase the capacity of developing, implementing and applying ABS provisions and to improve skills to negotiate ABS agreements and bioprospecting projects in Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guyana, Panama, and Peru.<sup>10</sup>

(b) “Capacity-building for Access and Benefit-sharing and conservation and sustainable use of medicinal plants” in Ethiopia (2011-2015) (April 2010, UNEP) (US\$ 2.18 million from GEF grants and US\$ 2.03 million from co-financing). This project aims to ensure conservation and sustainable use of biodiversity and associated traditional knowledge through conservation and sustainable use of medicinal plants and the effective implementation of a revised national ABS regime.<sup>11</sup>

(c) “Supporting the development and implementation of access and benefit-sharing policies in Africa” (2010-2012) (April 2010, UNEP) (US\$ 1.18 million from GEF grants and US\$ 1 million from co-financing). This project aims to develop, implement and review ABS frameworks in Cameroon, Kenya, Madagascar, Mozambique, Senegal, and South Africa.<sup>12</sup>

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<sup>7</sup> UNEP/CBD/COP/4/22 (addressing the fair and equitable sharing of the benefits arising out of genetic resources: options for assistance to developing country parties to the convention on biological diversity), 9 February 1998.

<sup>8</sup> Decision IV/13, paragraph 8.

<sup>9</sup> [http://www.thegef.org/gef/sites/thegef.org/files/documents/GEF\\_4\\_strategy\\_BD\\_Oct\\_2007.pdf](http://www.thegef.org/gef/sites/thegef.org/files/documents/GEF_4_strategy_BD_Oct_2007.pdf)

<sup>10</sup> Further information on this project can be found at: < <http://www.thegef.org/gef/sites/thegef.org/files/documents/document/12-16-11%20Regional%20webdoc.pdf> > .

<sup>11</sup> Further information on this project can be found at: < <http://gefonline.org/projectDetailsSQL.cfm?projID=4091> > .

<sup>12</sup> Further information on this project can be found at: < [http://www.thegef.org/gef/sites/thegef.org/files/documents/document/04-14-10%20Council%20document\\_4.pdf](http://www.thegef.org/gef/sites/thegef.org/files/documents/document/04-14-10%20Council%20document_4.pdf) > .

(d) “Building capacity for regionally harmonized national processes for implementing CBD provisions on access to genetic resources and sharing of benefits” (2011-2013) (March 2011, UNEP) (US\$ 0.75 million from GEF grants, and US\$ 0.75 million from co-financing). This medium-sized project aims to support the development of national ABS frameworks in Southeast Asian countries and improve awareness-raising Brunei, Indonesia, Cambodia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Timor Leste, and Vietnam.<sup>13</sup>

(e) “Strengthening the implementation of the Biological Diversity Act and rules with focus on its access and benefit-sharing provisions” in India (2011-2014) (February 2011, UNEP) (US\$ 3.56 million from GEF grants, and US\$ 6.28 million from co-financing). The objectives of this project are to increase the institutional, individual and stakeholder’s capacity to implement ABS legislation and ABS agreements<sup>14</sup>.

30. The GEF-5 biodiversity strategy for the period 2011-2014 was built on its experiences in GEF-4, and its fourth objective is to build capacity on ABS.<sup>15</sup> According to the GEF-5 replenishment document,<sup>16</sup> the initial capacity-building support will be provided in access and benefit-sharing (\$40 million was nationally allocated to this objective in the strategy and was based on past demand, however, if demand exceeds \$40 million, GEF will respond to the demand accordingly) in response to existing guidance from the Conference of the Parties and emanating from an agreed international regime at the tenth meeting of the Conference of the Parties, which now is the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. This suggested global distribution will be realized through country allocations under the System for Transparent Allocation of Resources (STAR). The GEF-5 replenishment became effective from March 2011.

31. Finally, at the thirty-ninth meeting of the GEF Council, the Japanese Council Member called for the need to take concrete action on goals and objectives set at the tenth meeting of the Conference of the Parties and proposed the establishment of a Trust Fund for access and benefit-sharing.<sup>17</sup> The Council expressed great interest in reviewing Japan’s proposal. Following the review of the GEF Council during the inter-sessional period, the GEF Chief Executive Officer officially announced the establishment of the Nagoya Protocol Implementation Fund (NPIF) on 17 March 2011, with an initial financial contribution of US\$ 12.5 million from Japan. The GEF Council at its fortieth meeting on 23 May 2011 will further discuss the operational modalities of this new Trust Fund.

### **C. Other ABS capacity-building initiatives**

32. Following the adoption of the Action Plan on Capacity-building for Access and Benefit-sharing in 2004 a number of capacity-building projects were initiated. These projects generally supported capacity-building for the development of national or regional frameworks to implement the Convention’s ABS provisions, for awareness-raising and for improving negotiation skills in support of the negotiations of the international regime. The following projects provide examples of the objectives and approaches followed and of the mechanisms established to build and develop capacity for ABS.

*The IUCN ABS Project “Law Equity and Biodiversity”*<sup>18</sup>

33. Funded by the German Federal Ministry for Economic Cooperation and Development (BMZ) and implemented by the International Union for the Conservation of Nature (IUCN) Environmental Law

<sup>13</sup> Further information on this project can be found at: < <http://www.thegef.org/gef/sites/thegef.org/files/documents/document/3-1-11%20-%20Webposting.pdf>>.

<sup>14</sup> Further information on this project can be found at: < <http://www.thegef.org/gef/sites/thegef.org/files/documents/document/2-23-11%20-%20Webposting.pdf>>.

<sup>15</sup> [http://www.thegef.org/gef/sites/thegef.org/files/documents/document/GEF-5\\_Bio\\_strategy.pdf](http://www.thegef.org/gef/sites/thegef.org/files/documents/document/GEF-5_Bio_strategy.pdf)

<sup>16</sup> [http://www.thegef.org/gef/sites/thegef.org/files/documents/GEF\\_R5\\_31\\_CRP1.pdf](http://www.thegef.org/gef/sites/thegef.org/files/documents/GEF_R5_31_CRP1.pdf)

<sup>17</sup> <http://www.thegef.org/gef/sites/thegef.org/files/documents/C.39%20Highlights.Final%20Document%20Nov%2022.pdf>

<sup>18</sup> See < <https://www.cbd.int/abs/project.shtml?id=6071>>.

Centre, the ABS project addressed issues related to the national, regional and international implementation of the ABS provisions of the CBD during the period 2003-2005.

34. The objectives of the project were to: (i) support the development of an effective international ABS regime through research analysis and the development of practical tools for delegations; (ii) reconcile the international ABS regime with existing international regimes, instruments and processes; (iii) support the development of national and regional measures, instruments, processes and positions on access and benefit-sharing, and their implementation; (iv) support an international intellectual property rights regime for genetic resources; and (v) identify and protect intellectual property rights relating to genetic resources at national level.

35. For achieving its objectives the International Union for Conservation of Nature (IUCN) relied on the following capacity-building and awareness-raising tools:

- (a) Publications on ABS;
- (b) Workshops;
- (c) Technical assistance to selected countries to develop ABS implementing law and legal arrangements;
- (d) Development of a team of regional experts in legal and policy work towards national and multilateral implementation of ABS;
- (e) Development of a toolkit for national and regional creation of effective ABS regimes and organization of workshops and other programmes for the training of local personnel in its use; and
- (f) Development of communication tools, including an ABS legislation database.

36. Further to the adoption of the Nagoya Protocol, the IUCN Environmental Law Centre has undertaken to develop an explanatory guide to the Nagoya Protocol. The guide will explain the Protocol text as well as the implications for implementing each specific article. It will be published in English and translated into Spanish and French.<sup>19</sup>

#### *The ABS Capacity Development Initiative for Africa*

37. Established in 2006, the ABS Capacity Development Initiative for Africa is a multi-donor initiative hosted by the German Federal Ministry of Economic Cooperation and Development (BMZ) and implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). It has supported relevant African Governments and stakeholders in developing and implementing national ABS regulations while developing the capacity of African delegates to negotiate the international ABS regime. Although limited to the African continent, this initiative constitutes the most comprehensive attempt to build capacity and awareness on ABS.

38. The objectives of the initiative are to: (i) increase awareness of African policymakers and legislators on ABS, especially its potential for poverty alleviation and cross-sectoral nature; (ii) strengthen the knowledge of Governments and all relevant stakeholders on ABS-related matters; and (iii) develop new and strengthen existing networks of African ABS experts drawn from all relevant stakeholder groups.

39. A variety of capacity-building and awareness-raising instruments is being used to meet the above objectives. These include:

- (a) Multi-stakeholder workshops where emerging ABS issues are discussed and priorities for capacity development are defined in a participatory manner;
- (b) Thematic and/or stakeholder-focused events;

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<sup>19</sup> See submission by IUCN in response to CBD Notification no. 2010-217, available at: [<http://www.cbd.int/icnp1/submissions/>](http://www.cbd.int/icnp1/submissions/)

- (c) Peer-to-peer knowledge transfer at national and local levels between African countries, as well as globally;
- (d) The development of ABS best practices with the private sector;
- (e) Information exchange and knowledge management within different stakeholder groups at national level and on a pan-African and global basis;
- (f) Technical papers and studies in order to set priorities, stimulate substantive discussions and provide support to decision-making;
- (g) Communication, education and public awareness for ABS; and
- (h) Preparatory meetings for negotiators and negotiation training.<sup>20</sup>

*The Japan International Cooperation Agency (JICA) project “Group Training Courses in Bioindustries”*

40. JICA with the support of the Japan Bioindustry Association (JBA) have been implementing “Group Training Courses in Bioindustries” for officials and researchers from developing countries for more than twenty years. Annually, about five to ten trainees are invited to Japan for the two month course. The training course includes lectures and field trips including hands-on experiences in a microbial taxonomy laboratory. A total of 200 officials and researchers from 30 countries have been invited to take the course in Japan. The recent 2010 course has more focus to CBD-related issues.<sup>21</sup>

#### **IV. VIEWS AND INFORMATION PROVIDED IN RELATION TO CAPACITY-BUILDING AND DEVELOPMENT**

41. A synthesis of views and information received from Parties, international organizations, indigenous and local communities and relevant stakeholders in relation to capacity-building and development in response to notifications 2010-216 and 2010-217,<sup>22</sup> dated 16 December 2010, is available in an information document (UNEP/CBD/ICNP/1/INF/3). As of 8 April 2011, the Secretariat had received contributions from fourteen countries and three submissions from indigenous and local communities.

42. The content of the submissions received is formulated in various ways, addresses different aspects of capacity-building and differs in the level of detail provided.

43. In order to provide an overview and synthesis of the views provided, the information contained in the submissions was grouped on the basis of the different facets of capacity-building addressed in the submissions received, as follows:

- (a) Measures needed to address capacity-building in key areas;
- (b) Actions identified to support the development of measures in these key areas;
- (c) Mechanisms to implement capacity-building and development, including though actions at national, regional and international levels;
- (d) Target groups for capacity-building and development activities; and
- (e) Key areas for capacity-building for indigenous and local communities and mechanisms to implement these capacities.

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<sup>20</sup> See < <http://www.abs-africa.info/index.html> >.

<sup>21</sup> See submission by Japan in response to CBD Notification no. 2010-216, available at: <<http://www.cbd.int/icnp1/submissions/>>

<sup>22</sup> SCBD/ABS/VN/SG/74553.

44. Although, as indicated above, only a limited number of submissions were received and they did not follow a common thread, the following provides some key points raised in relation to capacity-building needs:

(a) There is general recognition of the need to strengthen human resources and institutional capacity at the national level to meet the obligations of Parties under the Nagoya Protocol;

(b) The capacity to protect and add value to traditional knowledge associated with genetic resources was considered by some Parties as an additional key area for capacity-building;

(c) It was pointed out that prior to the development of appropriate national frameworks to meet Parties' obligations under the Nagoya Protocol there was a need to assess, at the national level, the existing measures in place, institutional frameworks as well as resources available. This would help to determine the existing gaps as well as the capacities, institutional arrangements and measures needed to meet Parties' obligations under the Protocol while taking into account national circumstances;

(d) Capacity-building needs highlighted by many included: Capacity to develop national measures and institutional arrangements, human resources' capacity, capacity to effectively access and use the ABS Clearing-House, capacity for the valuation of genetic resources and associated traditional knowledge, capacity to address transboundary situations and finally capacity at the national level for bioprospecting;

(e) The particular capacity-building needs of indigenous and local communities were pointed out;

(f) There is also broad recognition that the implementation of the Nagoya Protocol will require the involvement of a wide range of target groups at the national level (e.g. governmental employees, corporate sector, scientific community, non-governmental organizations, indigenous and local communities etc.) and that therefore capacity-building efforts should include these;

(g) The need to increase public awareness to access and benefit-sharing was also pointed out; and

(h) The need for appropriate funding resources to address these capacity-building needs was also raised.

## **V. CAPACITY-BUILDING MEASURES AND APPROACHES UNDER OTHER MULTILATERAL ENVIRONMENTAL AGREEMENTS**

45. This section provides some examples of capacity-building measures and approaches adopted under other multilateral environmental agreements (MEA) in order to provide some possible guidance regarding approaches for consideration in order to build and develop capacity under the Nagoya Protocol.

### **A. *Capacity-building under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity***

46. Capacity-building has been an important issue for the implementation of the Cartagena Protocol on Biosafety. At the global level, a number of tools and mechanisms have been developed to facilitate the capacity-building efforts of Parties. These include: (i) a capacity-building action plan; (ii) a coordination mechanism, (iii) a set of indicators to evaluate the Action Plan's implementation; and (iv) a roster of biosafety experts. This section provides first a short overview of the evolution of capacity-building efforts under the Biosafety Protocol starting from the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP) process through subsequent meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP). It also summarizes some of the main elements of the approach to capacity-building under the Cartagena Protocol.

47. Capacity-building was one of the priority items on the agenda of the first meeting of ICCP. At that meeting it was decided to convene an expert meeting to develop proposals on the implementation of the capacity-building provisions of the Protocol. With a view to support the expert meeting in the

consideration of the issue, the Secretariat prepared a questionnaire to help identify capacity-building needs. The expert meeting developed a proposal for an Action Plan on Capacity-Building subsequently agreed by ICCP at its second meeting. At its third meeting, ICCP worked on draft procedures for a coordination mechanism for capacity-building initiatives and interim guidelines for a roster of experts. At its third meeting, ICCP also considered a preliminary set of indicators for the monitoring of the implementation of the Action Plan.

48. In its decision BS-I/5, the first meeting of the Parties to the Protocol adopted the Action Plan for Building Capacities for the Effective Implementation of the Biosafety Protocol, the Coordination Mechanism and the set of indicators to monitor implementation of the Action Plan. The Action Plan and Coordination Mechanism were reviewed at the third meeting of the Parties to the Protocol and an updated Action Plan was adopted in decision BS-III/3. At their fourth meeting, Parties to the Protocol approved a revised set of indicators. The fifth meeting of the Parties to the Protocol considered the status report on the implementation of the Action Plan and decided that at their sixth meeting, Parties to the Protocol would undertake another comprehensive review of the Action Plan. The roster of experts established by decision EM-I/3 was also strengthened and improved by Parties to the Protocol in their decisions BS-III/4 and IV/4.

*a) Action Plan for Building Capacities for the Effective Implementation of the Biosafety Protocol*<sup>23</sup>

49. The objective of the Action Plan is to facilitate and support the development and strengthening of capacities to ratify and effectively implement the Protocol at the national, subregional, regional and global levels in a timely manner, including the provision of financial, technical and technological support to developing countries including countries with economies in transition. The Action Plan provides a general strategic framework to guide and facilitate the identification of country needs and priorities, as well as actions and mechanisms for implementation and funding of capacity-building at all levels.<sup>24</sup> The Action plan is implemented by Parties and other Governments, relevant international organizations and by the Secretariat.

50. The guiding principles and approaches are that capacity-building efforts should:

- (a) Be country-driven;
- (b) Ensure national ownership and leadership;
- (c) Ensure systematic and timely participation of all relevant stakeholders in the formulation, planning and implementation of capacity-building initiatives;
- (d) Recognizing that capacity-building is a dynamic, progressive and long-term process, and apply an adaptive and learning-by-doing approach;
- (e) Maximize synergy and complementarity among all capacity-building initiatives;
- (f) Apply a results-oriented approach focusing on achieving specific capacity-building outcomes;
- (g) Promote policy dialogue with donors and organizations and encourage the participation of civil society and the private sector;
- (h) Apply a holistic approach, integrating biosafety activities with relevant sectoral and national policies, strategies and programmes;
- (i) Encourage the development and implementation of nationally-designed and resourced activities that address the specific needs and priorities of each country; and

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<sup>23</sup> As updated by decision BS-III/3.

<sup>24</sup> *Ibid*, section 1.

(j) Promote high level political will and commitment to the implementation of the Protocol.<sup>25</sup>

51. The Action Plan highlights key elements requiring concrete action<sup>26</sup> and outlines a series of key steps to be undertaken. These are: (i) identifying capacity-building needs; (ii) prioritizing and developing timelines; (iii) mobilizing existing capacities; (iv) identifying the coverage and gaps; (v) enhancing the effectiveness of financial resources provided by donors; (vi) enhancing synergies and coordination; (vii) developing indicators to evaluate capacity-building measures; and (viii) identifying and maximizing opportunities to leverage resources and achieve greater impact.<sup>27</sup>

52. The Action Plan also offers an indicative list of activities to implement the elements and processes identified, at national, regional, subregional and international level.<sup>28</sup> In addition it incorporates mechanisms for coordination and regular monitoring in order to avoid duplications and to identify gaps.<sup>29</sup> Finally it provides that the Action Plan will be reviewed by the Parties to the Protocol every 5 years.<sup>30</sup>

53. At their third meeting, Parties to the Protocol reviewed the Action Plan based on the results from a questionnaire that was prepared by the Secretariat and sent to all Parties, other Governments and relevant organizations.<sup>31</sup> The updated Action Plan introduced the following changes:

(a) A section on guiding principles and approaches in light of the operational experience and lessons learned from relevant processes;

(b) A provision for review of the Action Plan every five years;

(c) The appendix with the possible sequencing of activities at national, regional and subregional and international level was deleted.

54. Some of the main findings and recommendations from the review of the status of implementation of the Action Plan undertaken by the third, fourth and fifth meetings of the Parties to the Protocol and the evaluations carried out by other organizations include the following:

(a) Most capacity-building efforts are donor-driven. There is a need for Governments to provide for biosafety activities in their national budgets to ensure the sustainability of those activities;

(b) There is a need to assist relevant officials from developing countries to acquire in-depth training and practical experience in relevant scientific and technical areas;

(c) There is a need for heightened awareness of biosafety issues, particularly among parliamentarians and other policymakers, and a need for measures to facilitate effective public involvement;

(d) Regional and subregional workshops, bilateral exchanges of technical experts, development of regional websites and databases and regional “centres of excellence” are vital mechanisms for capacity-building in developing countries;

(e) The principal focus of projects so far has been on the development of policy and regulatory regimes;

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<sup>25</sup> *Ibid*, section 2.

<sup>26</sup> *Ibid*, section 3.

<sup>27</sup> *Ibid*, section 4.

<sup>28</sup> *Ibid*, section 5.

<sup>29</sup> *Ibid*, section 6.

<sup>30</sup> *Ibid*, section 7.

<sup>31</sup> See < <http://www.cbd.int/doc/meetings/bs/mop-03/information/mop-03-inf-04-en.pdf>>.

(f) The current project cycles of 2 to 5 years do not provide adequate support to ensure lasting results. Longer-term projects and programmatic approaches to capacity-building are needed;

(g) For individual countries, there is a need to prioritize issues, identify their capacity-building needs and invest their own resources if they wish to benefit more from international assistance;

(h) There is an acute need for more sophisticated analysis of capacity-building needs. The relatively simple methods used to identify needs do not allow a strategic approach to the issue for donor agencies, recipients, educators and international organizations;

(i) Projects need to move away from the heavy reliance on workshops as the prime delivery mechanism. Innovative and targeted approaches are required for the design and delivery of training, including emphasis on learning-by-doing and iterative approaches.<sup>32</sup>

55. In general, the Action Plan has been useful in providing a strategic framework for capacity-building efforts at the national, sub regional, regional and global levels. A number of biosafety capacity-building projects have drawn directly on the elements and processes of the Action Plan.

*b) Capacity-building Coordination Mechanism<sup>33</sup>*

56. The Capacity-building Coordination Mechanism is another important element of the strategic approach to capacity-building under the Cartagena Protocol. Its objective is to facilitate the exchange of information with a view to promoting partnership and synergies between the various capacity-building initiatives undertaken in support of the Action Plan<sup>34</sup>. The Coordination Mechanism is meant to be facilitative, easily accessible, open to all interested stakeholders and complementary to existing coordination initiatives.<sup>35</sup>

57. The Coordination Mechanism consists of five elements:<sup>36</sup>

(a) A liaison group: Small ad-hoc group formed of experts serving in their individual capacity to provide expert advice to the Executive Secretary on ways to enhance the coordination and implementation of the Action Plan. It exchanges ideas and provides advice on overall strategic approaches;

(b) A biosafety capacity-building database maintained and accessed through the Biosafety Clearing-House (BCH);

(c) Information-sharing and networking mechanisms administered by the BCH. This element has two components:

(i) Biosafety Information Resource Centre (BIRC): A “virtual library” consisting of catalogues of information, scientific data and resource material relevant to capacity-building produced by various organizations and Governments; and

(ii) Biosafety capacity-building network: A platform that links individuals from government agencies, research institutions and other relevant organizations to interact and exchange views through Internet-based tools.

(d) Coordination meetings and workshops organized by the Secretariat providing a forum where individuals from government agencies, donors and relevant organizations involved in

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<sup>32</sup> See the report of the “Expert review of the effectiveness of various approaches to Biosafety Capacity-Building: Identifying best practices and lessons learned”, September 2010. Doc.UNEP/CBD/BS/COP-MOP/5/INF/9.

<sup>33</sup> Decision BS-I/5 Annex IV.

<sup>34</sup> *Ibid*, section A.

<sup>35</sup> *Ibid*, section B.

<sup>36</sup> *Ibid*, section C.

capacity-building meet face-to-face in an informal setting, to exchange information and lessons learned; and

(e) A reporting mechanism through a database of capacity-building reports maintained by the BCH and whenever possible with links to existing databases. The reporting mechanism includes progress reports on the implementation of the Action Plan, as well as voluntary reports from relevant organizations, including project progress reports, end-of-cycle evaluations, case-studies or lessons learned, for instance.

58. The Coordination Mechanism is administered by the Executive Secretary.<sup>37</sup> The Secretariat maintains the capacity-building databases in the BCH, organizes the Liaison Group and coordination meetings, maintains the Biosafety Information Resource Centre and administers the capacity-building forum.

59. Paragraph 23 of decision BS-I/5 adopting the Coordination Mechanism also urges Parties, other Governments and relevant organizations to establish national or regional coordination mechanisms.<sup>38</sup>

60. The Coordination Mechanism has been relatively successful. The capacity-building databases in the Biosafety Clearing-House contain more than 300 records of capacity-building projects and short-term interventions and 50 records of academically-accredited trainings. In addition, more than 1000 records of publications, audiovisual materials, database links and other resource materials have been registered in the Biosafety Information Resource Centre. As well, six coordination meetings for Governments and organizations involved in implementing and/or funding biosafety capacity-building activities and three coordination meetings for academic institutions involved in biosafety education and training and eight Liaison Group meetings have been organized.

61. In practice, however, the reporting mechanism described in subparagraph (e) above proved difficult to operationalize, and instead a provision on reporting was included in the information to be submitted to the database on capacity-building activities. The biosafety capacity-building network has not been effectively used. Only a handful of individuals have used the Biosafety Capacity-Building Collaborative Portal established by the Secretariat in the BCH to interact and exchange views and information. Nevertheless it can be a valuable tool to improve coordination and synergies.

*c) Set of indicators for monitoring implementation of the Action Plan<sup>39</sup>*

62. The first meeting of the Parties to the Protocol approved a preliminary set of indicators, together with the Coordination Mechanism and the Action Plan to be used by Parties to track overall progress in implementing the Action Plan. They fall under four main categories:

- (a) Indicators of existence determining whether capacity exists or not;
- (b) Indicators of status, including actual values of a given parameter, either quantitative or qualitative;
- (c) Indicators of change, which show variation in the level of a given parameter; and
- (d) Indicators of progress towards an endpoint.

63. At their fourth meeting, Parties to the Protocol adopted a revised set of indicators. These will be further reviewed at their sixth meeting, taking into account the operational experience of Parties in their application.

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<sup>37</sup> *Ibid*, paragraph 23.

<sup>38</sup> Reiterated in paragraph 14 and 20 of decision BS-III/3.

<sup>39</sup> As revised by decision BS-IV/3, Annex.

**B. The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)**

64. Within the context of the ITPGRFA, capacity-building has two dimensions. First, capacity-building is one of the mechanisms to share the benefits arising from the use of plant genetic resources for food and agriculture under the Multilateral System of Access and Benefit-sharing (MLS). This aspect of capacity is implemented through the Benefit-sharing Fund in accordance with Article 13, paragraph 2 (c) of the ITPGRFA. Secondly, building capacity is essential for the full implementation of the ITPGRFA in accordance with Article 19, paragraph 3.<sup>40</sup>

65. In 2006, resolution 1/2006 of the Funding Strategy, in its paragraph 13, invited Parties to provide information on their plans and programmes for building capacity in plant genetic resources for food and agriculture. The Secretariat, then, circulated a questionnaire to Parties regarding capacity-building needs to implement the ITPGRFA. The questionnaire was the first systematic approach to capacity-building and it aimed to identify Parties' needs, options and means to achieve required capacities, and elements for a coordination mechanism. The results of the survey highlighted three main categories for an effective implementation of the ITPGRFA: (a) consultation and information gathering and public awareness; (b) legal and regulatory measures; and (c) operational and administrative measures.<sup>41</sup>

66. Against this background, the ITPGRFA Secretariat, FAO and Bioversity International set up the "Joint Capacity Building Programme for Developing Countries" in order to provide assistance with implementation of the ITPGRFA. In addition, the Governing Body created the Capacity Building Coordinating Mechanism (CBCM) by resolution 3/2007 to ensure that capacity is built in a coherent, coordinated, equitable and regionally balanced manner, reflecting the actual needs of Contracting Parties and stakeholders and following the guidance of the Governing Body.

67. Additional capacity-building activities are planned within the framework of the Memorandum of Cooperation signed between the Secretariats of the ITPGRFA and the CBD, in particular through joint workshops with a view to supporting the implementation of the Nagoya Protocol and the ITPGRFA in a mutually supportive manner.

68. Resolution 8/2011 adopted by the fourth session of the Governing Body recognizes the importance of enhancing the cooperation and synergies between the ITPGRFA and the Convention and it requests to the Secretary of the ITPGRFA to further explore practical means and activities to give effect to this cooperation, in particular through capacity-building for access and benefit-sharing, as related to plant genetic resources for food and agriculture, including through the organization of workshops, seminars and other events, coordination of technical assistance as well as the exchange of information.

*The Joint Capacity Building Programme*

69. The objectives of the Joint Capacity Building Programme are: (a) to improve knowledge among national governments and stakeholders of issues underlying the implementation of the ITPGRFA and in particular of the MLS; and (b) to develop improved institutional, legal and administrative infrastructure for the operation of the MLS.<sup>42</sup>

70. During the first two years (2008-2009) the programme focused on two levels of activities:

(a) A series of regional workshops were held to raise awareness among policy makers and other stakeholders, to discuss possible regional coordination of efforts for the implementation of the MLS and to set out the stage for assistance at the national level. The workshops were organized in close partnership with recognized regional organizations.

<sup>40</sup> See "Rationale and operational structure of the Capacity Building Coordination Mechanism (CBCM)". Document IT/CBCM-1/08/2.

<sup>41</sup> See "Survey on capacity building needs and priorities for the implementation of the International Treaty on Plant Genetic Resources for Food and Agriculture". Document IT/CBCM-1/08/3 and the "Report from the First Meeting of the Capacity Building Mechanism for the Implementation of the International Treaty" (May 2008). Document IT/CBCM-1/08/Report.

<sup>42</sup> See < [http://www.itpgrfa.net/International/sites/default/files/jicbp\\_10.pdf](http://www.itpgrfa.net/International/sites/default/files/jicbp_10.pdf) >.

(b) Technical assistance and workshops to selected countries. Programme experts prepared draft technical recommendations on legal and administrative issues to national governments, including draft legal or administrative measures. National workshops were also organized to raise awareness to the ITPGRFA, consult with the relevant national stakeholders and review the draft technical recommendations.<sup>43</sup>

71. The programme components for the next phase of activities are the following:

- (a) Awareness-raising on MLS processes;
- (b) Technical assistance with implementing the legal and administrative measures set up in the first phase of the programme; and
- (c) Cooperation with International Agricultural Research Centres of the Consultative Group on International Agricultural Research and other signatories of agreements within in the context of Article 15 of the ITPGRFA, regarding *ex situ* collections.

*Capacity Building Coordination Mechanism (CBCM)*

72. The CBCM is a platform of organizations and institutions providing capacity-building that serves as a central point for information exchange and coordination of capacity-building initiatives for the national and regional implementation of the ITPGRFA.

73. The CBCM facilitates the channelling of the needs and priorities to organizations and institutions providing capacity-building. These needs and priorities are identified by the regular assessments of Contracting Parties' needs conducted by the Secretariat and by request from individual countries and communities.

74. The CBCM meetings enable a regular stocktaking of past and ongoing experiences in capacity-building and therefore facilitating: (a) the identification of gaps in the geographic and thematic coverage of capacity-building initiatives; (b) the identification of best practices and methodologies for planning, implementation, monitoring and evaluation of capacity-building initiatives; and (c) ways and means of addressing challenges and obstacles and finding solutions.<sup>44</sup>

75. Some of the conclusions from the first meeting of the CBCM in relation to existing or planned activities in capacity-building are the following:

- (a) Capacity-building for the ITPGRFA implementation is very recent and in many cases is still in the planning phase;
- (b) Often capacity-building for the ITPGRFA implementation is integrated into capacity-building activities on general issues such as intellectual property rights or access and benefit-sharing;
- (c) Most ongoing activities focus on information dissemination and on training, and less on technical and legal assistance;
- (d) Most capacity-building activities concentrate on one or several substantive areas, such as Farmers' Rights, conservation and sustainable use of plant genetic resources for food and agriculture or the MLS; and

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<sup>43</sup> *Ibid.*

<sup>44</sup> See "Rationale and operational structure of the Capacity Building Coordination Mechanism (CBCM)". Document IT/CBCM-1/08/2.

(e) The supply of capacity-building does not reach the demand for it. Therefore, the coordination approach becomes less on avoiding duplication than on establishing collaborative partnerships to foster the pooling of resources and expertise.<sup>45</sup>

76. The first meeting of the CBCM also considered the following elements to increase capacity-building coordination:

- (a) Development of an electronic newsletter on capacity-building initiatives, both from a substantive and organizational perspective;
- (b) E-mail list server and a dedicated webpage;
- (c) Development of indicators to prove donors that real stakeholder needs are being met; and
- (d) List of experts to work on capacity-building.<sup>46</sup>

## **VI. CONCLUSIONS AND CONSIDERATIONS FOR A STRATEGIC APPROACH TO ASSIST IN THE CAPACITY-BUILDING AND DEVELOPMENT FOR ACCESS AND BENEFIT-SHARING UNDER THE NAGOYA PROTOCOL**

77. The first attempt to develop a strategic approach to ABS capacity-building under the Convention was the Action Plan on Capacity-building for ABS adopted by the Conference of the Parties in 2004. However, the lack of financial resources has not allowed its full implementation. In addition the Secretariat was not provided with the necessary means to play its facilitating role.

78. Prior to the adoption of the Nagoya Protocol, ABS capacity-building projects have generally supported capacity to develop national or regional frameworks to implement the Convention's ABS provisions, raise awareness and improve the skills to negotiate the international regime. These projects have used a variety of approaches and mechanisms to build and develop capacity.

79. Due to the limited number of submissions received in relation to capacity-building and development and the conceptual differences in their formulation, no general conclusions can be drawn. However, the information submitted is useful to the further development of measures to assist in the capacity-building and development for ABS under the Nagoya Protocol.

80. With respect to the Cartagena Protocol, capacity-building has played a key role in its implementation. At the global level, a number of tools and mechanisms have been developed to facilitate the capacity-building efforts of Parties. These include: (a) a capacity-building action plan; (b) a coordination mechanism, and (c) a set of indicators to evaluate the implementation of the action plan.

81. Under the ITPGRFA, capacity-building has been addressed in two ways: first as a mechanism to share the benefits within the context of the Benefit-sharing Fund of the Multilateral System; and secondly through a joint capacity-building programme to improve the overall implementation of the ITPGRFA and in particular, of the Multilateral System. Capacity-building initiatives are coordinated through a coordination mechanism. Policy and legal assistance has been identified as one of the priority areas for capacity-building initiatives for the ITPGRFA implementation.

82. With a view to implementing the Nagoya Protocol, Parties will need to adopt measures to meet their new obligations under the Protocol. For example, for some of them, existing legal frameworks will have to be revised and further developed in light of the Nagoya Protocol, and for others, new legislative, administrative and policy measures on ABS will need to be developed and adopted.

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<sup>45</sup> See "Report from the First Meeting of the Capacity Building Mechanism for the Implementation of the International Treaty" (May 2008). Document IT/CBCM-1/08/Report.

<sup>46</sup> *Ibid.*

83. In addition, the effective implementation of the Protocol will require comprehensive capacity-building and capacity development efforts to ensure that the Protocol and the domestic frameworks developed meet their objectives and that these are translated into reality on the ground. To meet these needs, a comprehensive and coordinated approach to capacity-building for access and benefit-sharing may be required to ensure maximum efficacy and efficiency of the capacity-building efforts.

84. The development of a strategic approach to assist in the capacity-building, capacity development and strengthening of human resources and institutional capacities in developing country Parties and Parties with economies in transition could provide an appropriate framework for action, while facilitating Parties' efforts to cooperate as called for in Article 22.1 of the Nagoya Protocol. It could guide and facilitate the identification of country needs, priorities, and mechanisms and provide a framework to implement capacity-building efforts at the national, regional and international levels.

85. In developing a strategic approach to capacity-building and development to support implementation of the Nagoya Protocol, elements included in Article 22 should be taken into account. These include the following:

- (a) Identifying key areas for capacity-building and development in accordance with Article 22.4;
- (b) Identifying measures needed to address capacity-building in key areas, taking into account Article 22, paragraph 5;
- (c) Involving existing global, regional, subregional and national institutions and organizations (Article 22.1);
- (d) Involving indigenous and local communities and relevant stakeholders, including non-governmental organizations and the private sector (Article 22.1);
- (e) Considering the need for financial resources of developing country Parties and Parties with economies in transition (Article 22.2);
- (f) Relying on national capacity self-assessments, including the capacity needs and priorities of indigenous and local communities and relevant stakeholders as identified by them, in accordance with Article 22.3 as basis for the implementation of the strategic approach; and
- (g) A reporting requirement on initiatives taken at multiple levels through the ABS Clearing-House as a mechanism to promote coordination and synergies (Article 22.6).

86. It should be noted that the issue of awareness-raising although closely related to capacity-building is being addressed separately under agenda item 5. However, there will be a need to ensure that the awareness-raising strategy, proposed in document UNEP/CBD/ICNP/1/5 for the consideration of the Intergovernmental Committee, is complementary to the capacity-building approach developed.

87. Past experience on capacity-building for ABS, namely the 2004 Action Plan on Capacity-building for ABS,<sup>47</sup> experience gathered from other international forums, such as the Biosafety Protocol and the ITPGRFA, as well as the views and information provided in relation to capacity-building and development, could provide useful background to the development of a strategic approach for capacity to support the implementation of the Nagoya Protocol, in accordance with Article 22 of the Protocol.

88. Drawing from all the above, a strategic approach could involve the following elements:

- (a) *Objectives;*

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<sup>47</sup> For ease of reference, the Action Plan is available in information document UNEP/CBD/ICNP/1/INF/5.

(b) *Guiding principles and approaches*, including those provided by Article 22. The experience and lessons learned on building capacity for ABS as well as experience from other forums could provide some useful guidance regarding principles and approaches to capacity-building;

(c) *Key areas for capacity-building*, taking into account those from Article 22.4. Views and information received on this issue can help to identify additional key areas;

(d) *Identification of measures to build or develop capacity in key areas*, taking into account those from Article 22.5. Views and information received in this issue and the Action Plan on Capacity-building for ABS could provide a preliminary indicative list;

(e) *Mechanisms for the implementation of capacity-building in key areas*. Views and information received on this issue and the Action Plan on Capacity-building for ABS could help in the consideration of this element;

(f) *A coordination mechanism*. In addition to the reporting requirement on capacity-building and development initiatives to the ABS Clearing-House (Article 22, paragraph 6), other coordination elements could be incorporated. The coordination mechanisms adopted under the ITPGRFA and the Cartagena Protocol could provide some elements for discussion;

(g) *Monitoring and review*. The strategic approach could also include developing a set of indicators to monitor its implementation, and therefore facilitate its review, as well as to assess the impact of the ABS capacity-building activities. The regular review of the strategic approach could provide the flexibility required to adapt according to the experience acquired and lessons learned. The approach taken by Cartagena Protocol could provide some background to its consideration;

(h) *Identification of a possible sequence of action for the implementation of activities*: Proposing a sequence of activities building on the elements of a strategic approach could assist countries to define priorities and establish timeframes, while helping to build a comprehensive and coherent approach to capacity-building for ABS with the full involvement of the indigenous and local communities and relevant stakeholders. The views and information received and the Action Plan on capacity-building for ABS could provide some guidance regarding this element; and

(i) *Other possible elements*. The experience gathered on capacity-building in other forums could assist to identify other possible elements to be incorporated in a strategic approach to capacity-building and development for ABS under the Nagoya Protocol.

89. Given the limited number of submissions received in relation to capacity-building and development, the further development of a strategic approach may require gathering information from a broader spectrum of Parties in a structured manner regarding the most appropriate approaches to meeting their needs. To this end, a questionnaire could be developed by the Secretariat on the possible elements of a strategic approach, taking into account the outcomes of discussions by the Intergovernmental Committee.

## VII. ISSUES FOR CONSIDERATION

90. The Intergovernmental Committee may wish to consider the development of a strategic approach to capacity in accordance with Article 22, on the basis of the elements identified in section VI.

91. The Intergovernmental Committee may wish to define a process with a view to further address the issue of capacity in accordance with Article 22 of the Protocol prior to the first meeting of the Parties to the Protocol by:

(a) Inviting Parties, international organizations, indigenous and local communities and relevant stakeholders to communicate in writing to the Executive Secretary their views and information regarding the elements of a strategic approach for capacity-building and development on the basis of a questionnaire to be developed by the Secretariat taking into account the outcomes of discussions by the

Intergovernmental Committee on the possible elements of a strategic approach to capacity-building and development;

(b) Requesting the Executive Secretary, subject to the availability of funds, to organize an expert meeting to further develop a draft strategic approach with a view to submitting the outcomes of the expert meeting to the second meeting of the Intergovernmental Committee for its consideration;

(c) Requesting the Executive Secretary to prepare a synthesis report of the views and information received in response to the questionnaire mentioned above regarding the elements of a strategic approach for capacity-building and development for consideration by the expert meeting as a basis for their discussions; and

(d) Inviting Parties, other Governments and relevant organizations to provide financial support for the organization of the expert meeting.

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