

# **IMPLEMENTATION OF THE NAGOYA PROTOCOL ON ABS AND THE ITPGRFA: AN AU PERSPECTIVE**

**AFRICAN UNION COMMISSION  
DEPARTMENT OF  
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# The AU in a Nut Shell

- **From the OAU to the AU:**
  - 1963: Towards independence, safeguarding territorial sovereignty and integrity of MS
  - 1999: Sirte Declaration calling for a new AU (to accelerate the process of integration of Africa, empowerment of states in the global economy and address the multi faceted social, economic and political challenges facing the continent)
  - 2001 Lome Summit (Constitutive Act), 2001 Lusaka Summit (roadmap on implementation of AU) and
  - 2002 Durban Summit (launched the AU, 1<sup>st</sup> Assembly)

### o Organs of the AU:

1. Assembly
2. Executive Council
3. Specialized Technical Committees
4. Peace and Security Council
5. The AU Commission
6. The Pan African Parliament
7. The Judicial and Human Rights Institutions
8. The Financial Institutions
9. The Permanent Representative Committee
10. The New Economic Partnership for Africa's Development (NEPAD) Agency
11. The Economic Social and Cultural Council
12. The Regional Economic Committees

# Support in matters of Biodiversity

- OAU Model Law-developed in the absence of current legally binding international regimes (NP, ITPGRFA ) and regional initiatives (ARIPO, OAPI ); gaps and variances exist
- Adoption of the ITPGRFA
- Adoption of the Nagoya Protocol on ABS in Oct 2010
- Lack of clear coordination in matters of biodiversity and ABS at the continental level

## Support in matters of Biodiversity

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- Agreement to develop a gap analysis report-Model Law still useful as it mainstreams the priority needs of African countries
- NP focuses largely on national implementation whilst some elements still remain in the international arena
- Need to develop guidelines to be annexed to the Model Law to assist MS in domestication and implementation of the NP on ABS

# MOVE FROM TECHNICAL TO POLITICAL

- September 2012: AMCEN adopted a decision on the establishment of a coordination mechanism for negotiations on Biodiversity (Model of the UNFCCC)
- AMCEN further endorsed the ongoing work on the development of the AU Implementation Guidelines
- January 2013: AU Assembly of Heads of State and Government adopted the AMCEN report including the process on the development of the Guidelines and expects updates on the matter
- March 2015-AMCEN adopted the Draft Guidelines with a set of recommendations on its implementation
- 2015- Guidelines+ recommendations endorsed by the AU Summit

## **The AU Guidelines on ABS: Its Structure**

### **Part One: Policy Framework/Strategic Guidelines**

- A) 'Principles' of the envisaged 'Coordination'
- B) 'Policy Guidance'-on direction to AU Member States on national implementation against a harmonized regional standard proposed by the AU Guidelines

### **Part Two: Step-by-step Guide/Practical Guidelines**

- Hands on tool for implementers of the Nagoya Protocol i.e., National Competent Authorities and related organs of AU Member States

## The MLS ITPGRFA and NP Interface: AU Guidelines on ABS

- Recognizes the need for continued elaboration and refinement for a coordinated African response on ABS (including *MLS on ABS*)-**Preamble**
- Acknowledges the objectives of the ITPGRFA on the conservation and sustainable use of plant genetic resources and their fair and equitable use for sustainable agriculture-**Preamble**
- Calls on AU Member States to develop compatible regional procedures for granting PIC, concluding MAT and monitoring compliance by users (in accordance with national laws)- **Policy Framework**



## The MLS ITPGRFA and NP Interface: AU Guidelines on ABS

- A coordinate approach to access for: utilization, benefit sharing and monitoring and compliance-  
***Strategy+Practical Guide***
- Envisages special considerations for specific types of access: research, emergency situations, PGRFA-  
***Strategy+Practical Guide***
- Recognizes the ITPGRFA as an international instrument that predates the NP and has a mutually supportive role (Art. 4 of NP)

## The AU Guidelines on ABS: Efforts to address the Challenges

Mutually supportive role albeit different approaches to ABS:

- AU Guidelines encourages Member States when implementing access measures at national level to be mindful of:
  - ✓ Scope of ITPGRFA: PGRFA within the MLS
  - ✓ The MLS governed by the Treaty facilitated access applies to PGRFA under Annex I (*subject to the Standard MTA*)
  - ✓ Not all AU Member States are Parties to the ITPGRFA

# The AU Guidelines on ABS: Efforts to address the Challenges

- ✓ When an AU Member State is a Party to both the Treaty and the NP-it has a choice:
  - using the Treaty only for the limited set of species and circumstances circumscribed by Annex 1 and the MTA, or
  - placing all of its PGRFA under the provisions of the Treaty
- ✓ Need to resolve this policy choice-important that NP NFPs engage their national counterparts for the ITPGRFA and agree on a coherent national approach

## The AU Guidelines on ABS: Efforts to address the Challenges

- ✓ Need to closely monitor the outcome of work under the CGRFA covering other GRFA which is likely to impact the implementation of the Nagoya Protocol at the national level
- ✓ Closer collaboration and coordination of activities between national sectoral agencies dealing with these GRFA and national ABS focal points under the NP can not be overstated
- ✓ African Group stays engaged and coordinates its positions on on-going ABS related negotiations

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## **For further information**

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