



Convention on  
Biological Diversity



The International Treaty  
ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE



RESEARCH PROGRAM ON  
Climate Change,  
Agriculture and  
Food Security



Ministry of Foreign Affairs of the  
Netherlands

# Embedding Mutually Supportive Implementation of the Plant Treaty and the Nagoya Protocol in the Context of Broader National Policy Goals – A Workshop for National Teams of Policy Actors

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Research Institute, Addis Ababa, Ethiopia

Jointly organised by the ABS Capacity Development Initiative and Bioversity International in cooperation with the African Union Commission and the Secretariats of the Convention on Biological Diversity and the International Treaty on Plant Genetic Resources for Food and Agriculture

## REPORT

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# Table of Contents

- Outline ..... 5
- Outcomes ..... 7
  
- 1. Official Opening.....9
- 2. Updates on International Processes and Introduction to the Conceptual Linkages of ABS under the Nagoya Protocol and the ITPGRFA with Poverty Alleviation, Climate Change Adaptation and Sustainable Development Goals .....10
- 3. Examining Potential Synergies for More Integrated Policy and Program Development at National Levels: A Seven Step Process.....22
- 4. Visit to the African Union Commission .....29
- 5. Way Forward .....35
  
- Presentations ..... 37
- Further Reading ..... 38
- Annotated Agenda ..... 39
- List of Participants..... 41
- Contact..... 45
- Annex 1: Survey ..... 46
- Annex 2: Briefing Note for African Union Organs ..... 50

## Acronyms and Abbreviations

ABS	Access and Benefit-Sharing
ACP	African, Caribbean and Pacific Group of States
AMCEN	African Ministerial Conference on the Environment
AU	African Union
AUC	African Union Commission
CBD	Convention on Biological Diversity
CGIAR	formerly known as 'Consultative Group of International Agricultural Research'
GEF	Global Environmental Facility
HRST	(Department of) Human Resources, Science and Technology
IRCC	Internationally Recognised Certificate of Compliance
ILRI	International Livestock Research Institute
IPLCs	Indigenous Peoples and Local Communities
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
MAT	Mutually Agreed Terms
MEAs	Multilateral Environmental Agreements
MIE	Multilateral Implementing Entity
MLS	Multilateral System of Access and Benefit-Sharing (under the ITPGRFA)
NAPA	National Adaptation Programmes of Action
NBSAPs	National Biodiversity Strategies and Action Plans
NIE	National Implementing Entity
OAU	Organisation of African Unity
PIC	Prior Informed Consent
REA	(Department of) Rural Economy and Agriculture
RECs	Regional Economic Communities
SCBD	Secretariat of the Convention on Biological Diversity
SDGs	Sustainable Development Goals
SMTA	Standard Material Transfer Agreement
STAR	System of Transparent Allocation of Resources
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change

# Outline

## Background

The coming into force of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (Nagoya Protocol) in October 2014 initiated renewed efforts to develop and implement access and benefit-sharing (ABS) mechanisms at the national level. At the same time, many countries are also working to develop policies and processes to implement the multilateral system of ABS under the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA or the International Treaty). Legislative, administrative or policy measures to implement both instruments need to be consistent and mutually supportive. So far, in a number of countries, implementation efforts have been challenged by, among other things, persistent uncertainties about how to address the interface between these systems, lack of coordination between agencies responsible for their implementation, and low levels of awareness about the agreements in general and the issues they are meant to address.

Aiming to address these challenges, the organisers of this workshop have supported previous efforts to bring together experts, stakeholders and policy makers to develop tools and methods in support of a coordinated and mutually supportive implementation of both instruments. In 2014, they organised a workshop for national focal points of the ITPGRFA and the Nagoya Protocol from twenty countries and a wide range of stakeholders whose daily work requires smooth co-implementation.<sup>1</sup>

In the context of these activities it became clear that there is also a generally low level of awareness among practitioners and decision makers in most countries about the contributions that appropriately regulated ABS can make to national development strategies, climate change adaptation plans, empowerment of indigenous peoples and local communities, biological diversity conservation, and other national policy priorities.

It is critically important that ABS policy making and implementation do not take place in a national policy vacuum, divorced from other national objectives and planning processes. The implementation of the ITPGRFA and the CBD/Nagoya Protocol can and should be complementary to and integrated with countries' national planning and program development processes related to climate change adaptation, rural development, food security, sustainable use and conservation of biological diversity, and so on. It is also critically important to scale-up discussions about the mutually supportive implementation of these two agreements and their links to regional efforts to address these same broader development goals.

## Objectives

'Embedding Mutually Supportive Implementation of the Plant Treaty and the Nagoya Protocol in the Context of the Broader National Policy Goals – A Workshop for National Teams of Policy Actors' was designed to respond to the situation described above.

In particular, the workshop's objectives were to provide national teams with the opportunities to:

- identify areas of common interest in national policy development, with a particular focus on how ABS can play a supporting role for climate change adaptation, national economic development, poverty alleviation, and conservation and sustainable use of biological diversity;

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<sup>1</sup> A full account of the outcomes of the meeting is provided in 'Mutually Supportive Implementation of the Plant Treaty and the Nagoya Protocol: A Primer for National Focal Points and Other Stakeholders', available online: [https://www.biodiversityinternational.org/fileadmin/user\\_upload/online\\_library/publications/pdfs/Mutually\\_supportive\\_implementation\\_of\\_the\\_Plant\\_Treaty\\_and\\_the\\_Nagoya\\_Protocol\\_1931.pdf](https://www.biodiversityinternational.org/fileadmin/user_upload/online_library/publications/pdfs/Mutually_supportive_implementation_of_the_Plant_Treaty_and_the_Nagoya_Protocol_1931.pdf). In 2013, the same group organised an expert workshop called 'The International Treaty and the Nagoya Protocol: Supporting mutual supportiveness in the implementation of both instruments at the national level'. See the report and related documents at <http://www.abs-initiative.info/countries-and-regions/global/italy/experts-workshop-the-international-treaty-and-the-nagoya-protocol-mutually-supportive-implementation>.

- identify options for creating and/or strengthening linkages between key national level actors engaged in developing policies and programs to address these national policy priorities in an integrated manner, with particular attention to the potential role that ABS mechanisms can play in the service of those programs and plans
- discuss and elaborate possible proposals for funding from donor agencies, including the Global Environmental Policy (GEF) to address linked-up development of national policies where ABS has a role to play.
- identify options for engagement of the African Union to support integrated programming and policy development in the areas of ABS policy (including implementation of the Nagoya Protocol and ITPGRFA), climate change adaptation, economic development, biological diversity conservation, and to promote such engagement through interactions with the Permanent Representative Committee of the African Union

### **Expected Outcomes**

It was anticipated that this workshop will have a positive impact on national policy development processes by assisting eleven national teams consisting of representatives from key sectors and organizations to

- identify synergies between their interests and activities in the areas of climate change adaptation in agriculture, national development and financial planning, Nagoya Protocol and ITPGRFA implementation and coordinating operations of the Global Environment Facility.
- identify options for overcoming challenges to linked-up, integrated, cross-sectoral national level planning and program implementation in the future.

In the longer term, the workshop should also contribute to similar outcomes in other countries by generating useful information in the form of a workshop report and additional materials for national policy actors in other countries who are interested in linking-up national policy and program development in the same areas.

Another hoped-for outcome was to catalyse a process at the level of the African Union to consider a programmatic approach to support mutually supportive implementation of the ITPGRFA and Nagoya Protocol linked to other AU work on climate change adaptation, agriculture and economic development and biological diversity conservation and use.

### **Methodology/Process**

Building on recommendations of participants from previous events, this workshop was designed to strengthen network ties between ITPGRFA and ABS focal points on the one hand and key actors from ministries of finance and planning, national authorities leading efforts to adapt agricultural systems to climate change, and potential donors of financial support for linked-up programs, such as GEF operational focal points on the other. This would help to lay the foundation for building broader coalitions of actors within countries who want to incorporate access and benefit-sharing in general, and implementation and use of the Nagoya Protocol and ITPGRFA in particular, into their work on national development, poverty alleviation, climate change adaptation and biological diversity conservation.

### *Participant Selection*

The workshop was able to accommodate eleven national teams (of up to five members each). An invitation for expressions of interest was circulated to African National Focal Points for the ITPGRFA and the Nagoya Protocol. The focal points were asked to coordinate with their co-nationals to develop and submit applications that included both Focal Points and up to three additional participants from the following fields:

- A representative from the department responsible for climate change adaptation planning in the agriculture sector,

- A representative from the national ministry of finance/planning
- The GEF operational focal point – responsible for the operational aspects of GEF activities such as endorsing project proposals to affirm that they are consistent with national plans and priorities and facilitating GEF coordination, integration and consultation at the country level.

#### *Pre-Workshop base-line Survey*

To get a more accurate impression of the state of the networks and coordination between the five national actors (i.e., National Focal Points for the Nagoya Protocol, ITPGRFA, Ministry of Finance/Planning, GEF operation focal point and representative from Ministry of agriculture dealing with climate change adaptation) from each country in terms of program and policy development, all participants were asked to fill out a survey. The survey sought feedback concerning how often they met each other, the purposes of their meetings, their levels of involvement in developing particularly relevant national policies and plans (including the National Development Strategy, Medium Term Expenditure Framework, NAPA, NBSAP etc.) their perspectives on the extent to which the ITPGRFA or Nagoya Protocol were included in those plans and strategies, and their involvement in bilateral negotiations for overseas development assistance. The survey instrument is included as Annex 1 to this report. Responses were compiled and a first overview of the results was presented to participants during the workshop (as reported below).

Additionally, some key references were circulated before the workshop as required reading (see section 'Further Reading' below).

#### *Methodological approach*

With a few expert presentations setting the scene, the major part of the workshop consisted of varying types of group exercises either within the country teams or within the groups of the different 'mandates' / responsibilities described above. This ensured a high activation of participants and gave them ample opportunity to exchange experiences with colleagues from other countries, but also dedicate time to in-depth discussion and planning with their national team fellows. The reflections and results of each step of the group works were visualised by the groups and subsequently shared and discussed in plenary.

All materials presented or generated during the workshop, including PowerPoint presentations, photos, videos and background documents, can be found on the meeting website at [http://www.biodiversityinternational.org/treaty\\_nagoya\\_workshop\\_2015](http://www.biodiversityinternational.org/treaty_nagoya_workshop_2015).

## **Outcomes**

Participants were introduced to relevant background information including the rationale and functioning of the Nagoya Protocol, the multilateral system of access and benefit sharing under the ITPGRFA, the use of plant genetic diversity for climate change adaptation, the relevance of genetic diversity conservation and sustainable use to the newly adopted Sustainable Development Goals and the Africa Union's Agenda 2063.

In participatory exercises, participants explored the links between ABS and national planning processes through, for example, the role of planning in identifying genetic resources in the country that could be of interest externally, or genetic resource needs for climate change adaptation. During the group work, the teams synthesized their collective thoughts and developed specific recommendations.

On the fourth day, participants attended a specially arranged session with the Permanent Representatives Committee at the African Union headquarters. They presented their ideas to the Permanent Representatives Committee and discussed options for future work at the level of the African Union.

On the last day of the workshop, participants reflected further on how national programs can work with one another and with the African Union in the future. National teams also reflected and agreed on a number of concrete steps they could take in the weeks following the workshop to catalyse actions on the nexus of ABS, food security, poverty alleviation and climate change and move this process further.

In the frame of the workshop, support was offered to interested participants for working on ideas for proposals to submit to donors (including GEF) promoting the mutually supportive implementation of the Nagoya Protocol and the ITPGRFA in support of climate change adaptation, poverty alleviation, and biodiversity conservation. Four country teams made use of this opportunity and initiated discussions on a potential project involving Burkina Faso, Mali, Benin and Madagascar.

## 1. Official Opening

*Siboniso Moyo, Director General's Representative at the International Livestock Research Institute (ILRI), Addis Ababa, Ethiopia* welcomed the participants to the ILRI Campus. She highlighted the importance of the ITPGRFA, the CBD and the Nagoya Protocol in the work of the ILRI which is actively engaged in the Consultative Group for International Agricultural Research (CGIAR) research programmes for a food-secure future and also hosts a gene bank which conserves one of the world's major collections of African grasses and tropical highland forages. Ms Moyo then drew attention to the fact that we are all globally interdependent on crop biodiversity. Crop genetic resources are essential for present and future food and nutritional security. They are the building blocks for selection and plant breeding containing the genes for drought tolerance, resistance to diseases and insect pests and adaptation to climate change to feed the world's growing population. Access to the diversity in these crops in their centres of origin is a global benefit that we can all share and use to achieve a sustainable future. Ms Moyo laid emphasis on the fact that the ITPGRFA recognises the importance of crop diversity and the global interdependence on it for food security. It also recognises the rights of farmers as guardians of crops diversity and that facilitated access and sharing of the benefits from its use are essential in the fight against hunger and poverty, particularly in an era of climate change that also affects food production. The Nagoya Protocol provides a transparent legal framework for the effective implementation of the access and benefit-sharing aims of the CBD to ensure the sustainable and equitable use of genetic resources, complementing the objective of the International Treaty. She then stressed that this workshop therefore offered an opportunity to work and discuss together the coordinated and mutually supportive implementation of these two important instruments. Finally, she wished the participants all the best in their deliberations on solutions to improve access to African genetic resources and the sharing of benefits arising from their utilisation on the continent in ways that also address the challenges African countries face in poverty alleviation, food security, conservation and climate change adaptation.

*Michael Halewood, Director of the Policy Unit at Bioversity International, Rome, Italy*, welcomed the participants and thanked the ILRI for hosting this workshop. He briefly presented the work of Bioversity International focussing on the support it provides to the national implementation of the ITPGRFA and gave a short background of its collaboration with the ABS Initiative. Mr Halewood explained that when the Nagoya Protocol was adopted, it became obvious that there was a need to link Bioversity International's work on ITPGRFA implementation with national initiatives to implement the Nagoya Protocol. The partnership between Bioversity International and the ABS Initiative kicked off in 2013 with an expert meeting in Rome which helped to shed some light on perceived "grey areas" between the two instruments. Mr Halewood highlighted the 2014 'tandem workshop' described in the introductory section above and how it led to the current workshop. He added that this workshop – bringing together five member teams consisting of national focal points, national ministries of finance and planning, agriculture and climate change, and GEF focal points from eleven countries – was the first of its kind, and an exciting experiment. He then thanked all the participants for coming to share in the experiment and wished them fruitful deliberations.

*Andreas Drews, Manager of the ABS Capacity Development Initiative (ABS Initiative)*, expressed a warm welcome to all the participants and thanked the ILRI Campus for hosting this country team workshop. Mr Drews informed the participants that this year's workshop, organised in cooperation with the AUC and focussing on the policy challenges faced by African countries in the domestication of the Nagoya Protocol and the ITPGRFA, was another fruit of the collaboration between the ABS Initiative, Bioversity International and the two Secretariats of the CBD and the ITPGRFA on the mutually supportive implementation of both instruments. Mr Drews then gave a brief background of the work of the ABS Initiative and of the international context in which it came to be. When the CBD entered into force in 1993, the focus for national implementation was clearly set on conservation, i.e. the first objective of the CBD. However, over the last two decades, a transformation took place and culminated in the formulation and adoption of the Nagoya Protocol in 2010, a

legally binding framework addressing the implementation of the third objective of the CBD. This change from protecting to safeguarding and making wise use of biodiversity led to the inclusion of ABS in the Sustainable Development Goals (SDGs).<sup>2</sup> In this context, the sustainable use of biodiversity and the fair and equitable sharing of benefits generated from the utilisation of genetic resources become essential components of the on-going rural transformation processes and development in Africa. They can enhance rural incomes and employment, improve well-being and link local production to regional and global markets while addressing some of challenges originating from, among others, globalisation, urbanisation and climate change. The entry into force of the Nagoya Protocol in October 2014 sparked quite a lot of momentum in many countries all over the world which are now busy designing their national regulatory ABS frameworks. To date, twenty-nine African countries have ratified the Protocol – this is about half of all states of the continent, sending a very distinct and encouraging signal to the international community. It also means that, currently, about half of the Parties to the Protocol are African countries and that there is a good chance that the Protocol will continue to bear the signature of the African Group, providing a fair and fruitful basis for sustainable development and biodiversity conservation. Mr Drews concluded by wishing all the participants a productive and informative meeting.

*Mahlet Teshome from the Department of Human Resources, Science and Technology (HRST) at the AUC* extended a warm welcome to all the participants. She highlighted that food security, biodiversity conservation and climate adaptation were intricate challenges requiring multifold solutions that are capable of responding to varying contexts. The relationship between the CBD, its Nagoya Protocol and the International Treaty should therefore be viewed as essential to address the above challenges and achieve a sustainable future. In this regard, she stressed that this workshop was particularly timely in light of the recent adoption of the AU Guidelines for a coordinated implementation of the Nagoya Protocol in June 2015 which highlight the need for coordination with the implementation of the International Treaty. She then thanked the Secretariat of the CBD (SCBD) which has been a key partner in assisting the AUC to play its coordination role at international fora and in the journey leading to the final adoption of the Nagoya Protocol. She also paid tribute to the ABS Initiative, a long standing partner, which has significantly assisted AUC Member States to plan, develop and implement key activities to advance ABS implementation in the region. She then saluted the active engagement of Bioversity International, especially on activities linking up the two treaties. She also called participants' attention to the fact that this workshop was an opportunity for them to meet and reflect on initial ideas and proposals with relevant officials from the AUC, including the Permanent Representative Committees, to raise awareness at a high political level on the importance of a mutually supportive implementation of both instruments. She concluded by wishing the participants fruitful deliberations and a pleasant stay in Addis Ababa.

## **2. Updates on International Processes and Introduction to the Conceptual Linkages of ABS under the Nagoya Protocol and the ITPGRFA with Poverty Alleviation, Climate Change Adaptation and Sustainable Development Goals**

### **Introduction**

The main objective of this introductory session was to provide all the participants with an adequate basis of common knowledge to participate in the exercises during the following days of the workshop.

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<sup>2</sup> In 2015, the UN General Assembly formally accepted a new set of 17 measurable SDGs, ranging from ending world poverty, tackling climate change to achieving gender equality by 2030. The SDGs are to succeed the Millennium Development Goals, a set of eight measurable goals which were signed in September 2000. For more information, see Sustainable Development Goals at <http://www.un.org/sustainabledevelopment>.

## Introduction to the Overall Guiding International Frameworks

### The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization

*Kathryn Garforth from the SCBD* introduced her presentation by giving a brief background clarifying the reasons leading to the adoption of the Nagoya Protocol. The CBD, which was adopted in 1992, has three objectives: (i) the conservation of biological diversity; (ii) the sustainable use of its components and (iii) the fair and equitable sharing of the benefits arising out the utilisation of genetic resources. The intention was that these three objectives would be interrelated so that the third objective supported the conservation and sustainable use of biodiversity. However, there were difficulties with the implementation of this third objective and allegations of the misappropriation of genetic resources and the traditional knowledge associated with them. The Nagoya Protocol, which was adopted in 2010 and entered into force in October 2014, was developed to address these issues. It aims at providing a legal framework that creates clarity, transparency and legal certainty for the equity relationship of the CBD in order to build trust between users and providers of genetic resources and associated traditional knowledge. The Nagoya Protocol provides for clearer obligations for access to genetic resources and associated traditional knowledge, benefit-sharing (monetary or non-monetary) and compliance with national legislation, the third pillar of the Protocol. The Nagoya Protocol also establishes an online ABS Clearing-House where Parties must share information on their ABS-related measures. The ABS Clearing-House is a tool by which users of genetic resources can find information on countries from which they would like to seek access to genetic resources. It provides also for the internationally recognised certificate of compliance (IRCC) which allows the tracking of the utilisation of genetic resources that have been accessed. The CBD and the Nagoya Protocol include a number of linkages to broader issues such as genetic resources for food and agriculture, poverty alleviation, climate change, domestic research and innovation capacity. For example, the Preamble of the Nagoya Protocol highlights the links to food security, sustainable development of agriculture, poverty alleviation and climate change.<sup>3</sup> Special consideration for genetic resources for food and agriculture and their role for food security are also given in Article 8 of the Protocol.<sup>4</sup> Finally, Article 4 addresses the Protocol's relationship with other international agreements and instruments, which enables the mutually supportive implementation of the Protocol with the ITPGRFA.<sup>5</sup>

### Overview of the International Treaty on Plant Genetic Resources for Food and Agriculture

*Kent Nnadozie of the Secretariat of the ITPGRFA* provided a brief history of the ITPGRFA and an overview of the key elements of the treaty. He first highlighted the importance of plant genetic resources for food and agriculture (PGRFA) for future food security and sustainable development. Food production as well as the quality and nutritional value of PGRFA must be improved to address the needs of an ever-increasing global population. Preserving the diversity of PGRFA, i.e. the diversity within crops, and supporting research on traits to improve their quality is therefore critical. PGRFA come from many parts of the world. Countries and regions all depend for food and agriculture on crops that originated elsewhere. However, climate change will gradually alter growing conditions for crops, exceeding the adaptive capacity of many traditionally grown crops and increasing the interdependency of countries on PGRFA and their need to look for sources of adaptive traits in

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<sup>3</sup> The Preamble of the Nagoya Protocol recognises “the interdependence of all countries with regard to genetic resources for food and agriculture as well as their special nature and importance for achieving food security worldwide and for sustainable development of agriculture in the context of poverty alleviation and climate change”. It also acknowledges “the fundamental role of the International Treaty on Plant Genetic Resources for Food and Agriculture and the FAO Commission on Genetic Resources for Food and Agriculture in this regard”.

<sup>4</sup> Article 8 (c) of the Nagoya Protocol states that “[i]n the development and implementation of its access and benefit-sharing legislation or regulatory requirements, each Party shall ... [c]onsider the importance of genetic resources for food and agriculture and their special role for food security”.

<sup>5</sup> Article 4.4 of the Nagoya Protocol provides that “[w]here a specialised international access and benefit-sharing instrument applies that is consistent with, and does not run counter to the objectives of the Convention and this Protocol, this Protocol does not apply for the Party or Parties to the specialised instrument in respect of the specific genetic resources covered by and for the purpose of the specialised instrument”.

genetic diversity in other parts of the world. This global interdependency on the exchange of genetic resources and traits between countries required a specific ABS approach for dealing with food crops and motivated the need for an international treaty. The ITPGRFA, the main objectives of which are the conservation and sustainable use of PGRFA and the fair and equitable sharing of benefits derived from their use, in harmony with the CBD, for sustainable agriculture and food security, was adopted in 2001 and entered into force in 2004. It is a crucial legal instrument to respond to the challenges of crop diversity preservation, global food security and climate change adaptation. Article 1.2<sup>6</sup> reinforces the link between the International Treaty and the CBD while Articles 3,<sup>7</sup> 5<sup>8</sup> and 6<sup>9</sup> expand more on the scope and other aspects such as the conservation, exploration, collection, characterisation, evaluation, documentation and sustainable use of PGRFA. Article 9<sup>10</sup> recognises, for the first time in an international treaty, farmers' rights and their enormous contribution to the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world. Farmers' rights include the protection of traditional knowledge and the right to participate equitably in benefit-sharing and in national decision-making about PGRFA. Article 17<sup>11</sup> introduces a Global Information System to be elaborated in order to facilitate the exchange of existing scientific, technical and environmental information related to PGRFA. But most importantly, the ITPGRFA establishes a multilateral system (MLS), both to facilitate access to PGRFA and share, in a fair and equitable way, the benefits arising from their use. The MLS covers the genetic material of a set of crops and forages listed in Annex 1 of the ITPGRFA. Benefit-sharing includes: i) facilitated access; ii) exchange of information; iii) access to and transfer of technology; iv) capacity building; and v) the sharing of monetary and other benefits of commercialisation. The International Treaty also establishes a Benefit-Sharing Fund to support projects aimed at smallholder farmers in developing countries who conserve and sustainably use PGRFA. Its priorities are the sustainable use of PGRFA, farm management and conservation and information exchange, technology transfer and capacity building. The presentation concluded by briefing the participants on two important outcomes of the last session of the Governing Body of the International Treaty that took place in October 2015 and which: i) acknowledged the need for continued capacity-building support to Parties, especially developing countries, for the mutually supportive implementation of the Treaty, the CBD and its Nagoya Protocol and ii) welcomed the efforts of the Secretariats of the ITPGRFA and the CBD in collaboration with the AUC, Bioversity International, the ABS Initiative and other partners to bring together stakeholders and experts involved in the implementation of the ITPGRFA, the CBD, and the Nagoya Protocol, and requested the Secretary to continue facilitating such interaction on the mutually supportive, harmonious and appropriate implementation of the instruments.

## Plenary Discussion

The following is a summary of the main points discussed in the plenary:

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<sup>6</sup> Article 1.2 of the ITPGRFA states that "these objectives will be attained by closely linking this Treaty to ... the Convention on Biological Diversity"

<sup>7</sup> Article 3 of the ITPGRFA indicates that "[t]his Treaty related to plant genetic resources for food and agriculture".

<sup>8</sup> Article 5.1 of the ITPGRFA provides that "[e]ach Contracting Party shall ... in cooperation with other Contracting Parties ..., promote an integrated approach to the exploration, conservation and sustainable use of plant genetic resources for food and agriculture".

<sup>9</sup> Article 6.1 of the ITPGRFA states that "[t]he Contracting Parties shall develop and maintain appropriate policy and legal measures that promote the sustainable use of plant genetic resources for food and agriculture".

<sup>10</sup> Article 9.2 of the ITPGRFA provides that "[t]he Contracting Parties agree that the responsibility for realising Farmers' Rights, as they relate to plant genetic resources for food and agriculture, rests with national governments. In accordance with their needs and priorities, each Contracting Party should, as appropriate, and subject to its national legislation, take measures to protect and promote Farmers' Rights, including: a) protection of traditional knowledge relevant to plant genetic resources for food and agriculture; b) the right to equitably participate in sharing benefits arising from the utilisation of plant genetic resources for food and agriculture; and c) the right to participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture."

<sup>11</sup> Article 17.1 of the ITPGRFA says that "Contracting Parties shall cooperate to develop and strengthen a global information system to facilitate the exchange of information, based on existing information systems, on scientific, technical and environmental matters related to plant genetic resources for food and agriculture [...]".

- *The Purpose of the IRCC*: A permit or its equivalent issued in accordance to Article 6.3 (e)<sup>12</sup> by a provider country becomes an IRCC following its publication in the ABS Clearing-House with all the necessary information as indicated in Article 17.4<sup>13</sup> of the Nagoya Protocol. When a permit is published in the ABS Clearing-House and an IRCC is constituted, the user obtains a certificate which shows that the genetic resources and/or associated traditional knowledge have been accessed legally. The user can then provide the IRCC to a checkpoint as proof that they have accessed the genetic resources and the associated traditional knowledge legally and that the use of the resources and knowledge is in line with the terms that have been agreed to in the ABS agreement, i.e. prior informed consent (PIC) and mutually agreed terms (MAT). Parties to the Protocol are obliged to establish checkpoints to monitor the use of the genetic resources. Countries are still deliberating on which institutions will be the best checkpoints and on what the best practices would be.
- *Hierarchical Relationship of the Nagoya Protocol with other International Agreements and Instruments*: Article 4 of the Nagoya Protocol was discussed at length during the negotiations leading to the adoption of the Protocol. There is, in fact, no hierarchical relation between the ITPGRFA and the Nagoya Protocol – the Nagoya Protocol is on equal footing with any other treaty. Parties to either treaty or any other specialised instruments have to implement them in a way that is complementary and mutually supportive. The ITPGRFA and the Nagoya Protocol are meant to operate together.
- *Compatibility of National ABS Legislation with the Obligations under the Nagoya Protocol*: Because African countries are still in the implementation phase of the Protocol and reflecting on how to implement its obligations, it is still too early to assess the compatibility and consistency of their ABS national legislation with the obligations under the Protocol. However, the SCBD tries to provide assistance to countries in their implementation of the Nagoya Protocol and is currently developing a number of e-learning modules in this regard. Countries can also find some support through the annual UNEP training course on the implementation of the various multilateral environmental agreements.
- *National Implementation of the ITPGRFA*: The various mechanisms to put in place for an effective implementation of the International Treaty have to be discussed at national level. Some directions and clarifications on the different approaches available can be provided but each country has to decide on the arrangements to be taken in relation to its own circumstances. The FAO/Biodiversity International/Treaty Secretariat Joint Program provides support for national programs implementing the multilateral system of access and benefit-sharing.
- *Reporting transfers of PGRFA under the ITPGRFA's multilateral system of access and benefit sharing*: All transferors of materials using the Standard Material Transfer Agreement (SMTA) adapted by the Governing Body of the ITPGRFA must report those transfers to the Governing Body. Information about all transfers is kept in a confidential data storage centre in Geneva, Switzerland.
- *Sharing accessing level information under the Global Information System of the ITPGRFA*: Article 6 of the SMTA states that all recipients of materials will share non-confidential information derived from research and development on materials received. They are to share that information through the Global Information System that will be developed/endorsed under the Treaty framework.

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<sup>12</sup> Article 6.3 (e) of the Nagoya Protocol says that “each Party requiring PIC shall take the necessary legislative, administrative or policy measures, as appropriate, to ... [p]rovide for the issuance at the time of access a permit or its equivalent as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms, and notify the Access and Benefit-Sharing Clearing-House accordingly.”

<sup>13</sup> Article 17.4 of the Nagoya Protocol provides that “[t]he internationally recognised certificate of compliance shall contain the following minimum information when it is not confidential: (a) Issuing authority; (b) Date of issuance; (c) The provider; (d) Unique identifier of the certificate; (e) The person or entity to whom prior informed consent was granted; (f) subject-matter or genetic resources covered by the certificate; (g) Confirmation that mutually agreed terms were established; (h) Confirmation that prior informed consent has been obtained; and (j) Commercial and/or non-commercial use.”

- *Benefit-Sharing and Transfer to Third Party under the ITPGRFA*: Under the CBD and the Nagoya Protocol, the benefit-sharing conditions are negotiated between the provider and the recipient of genetic resources, usually according to national legislation of the provider country. Under the MLS of the International Treaty, the access and benefit sharing terms were negotiated in advance by the contracting parties, and they are included in the SMTA, including how monetary benefit-sharing takes place. The SMTA is fixed, and its terms cannot be altered by the provider or the recipient of the genetic resources.<sup>14</sup> According to the SMTA, the recipient of genetic resources under the multilateral system can transfer those genetic resources to a third party for the purposes stated in the Treaty, always using the SMTA.

#### The Nagoya Protocol, Poverty Alleviation and Climate Change: Conceptual Linkages

*Andreas Drews from the ABS Initiative* introduced the participants to the conceptual linkages to poverty alleviation and climate change embedded in the Nagoya Protocol. He first looked at the interface of the CBD, the Nagoya Protocol and the International Treaty. The Nagoya Protocol applies to genetic resources within the scope of Article 15 of the CBD and the benefits arising from the utilisation of such resources. The Protocol also applies to the traditional knowledge associated with genetic resources within the scope of the CBD and the benefits arising from the utilisation of such knowledge.<sup>15</sup> In other words, both the CBD and the Nagoya Protocol apply to all genetic resources,<sup>16</sup> including PGRFA which are not in the MLS of the ITPGRFA<sup>17</sup> or which are used for purposes other than those stated in the ITPGRFA<sup>18</sup>. Although the scopes of both treaties are complementary, their harmonious implementation faces various challenges. At national level, there are perceived “grey areas” where it is not clear which regulatory system should apply; these required further clarification. Clear delineation of responsibilities for implementing the respective agreements also needs to be well-defined. This calls for the different ministries in charge to work together. At regional level, implementation challenges include ensuring coherent domestication of both instruments; encouraging information exchange between AU Member States, and monitoring ABS agreements and the utilisation of transboundary genetic resources and traditional knowledge. In this regard, the AU Guidelines are a critical document for assisting AU Member States to implement the Nagoya Protocol.

The ABS mechanism in the Nagoya Protocol involves establishing ABS agreements (i.e. PIC and MAT) between the provider and the user of genetic resources and/or associated traditional knowledge. Indigenous Peoples and Local Communities (IPLCs) holding rights over genetic resources and/or providing the traditional knowledge associated with them are also to be included in PIC and MAT negotiation and benefit-sharing. ABS agreements must be very clear about the terms of use (for example, if a transfer to a third party is allowed and if so, under which conditions, change of intent, etc.) and the terms for benefit-sharing. When evidence that PIC and MAT has been established as per national legislation, a permit is issued by the Competent National Authority of the provider country and becomes an IRCC as soon as it is published in the ABS Clearing-House, as already indicated above. Under both the CBD and the International Treaty, access to genetic resources, including PGRFA, rests with national governments and is subject to national legislation.<sup>19</sup> The regulatory challenge at national level is thus to determine who has the authority to regulate access, i.e. who can issue

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<sup>14</sup> In the case of PGRFA under Development, that is PGRFA that is still under the process of development that incorporates material received from the multilateral system, the developer may add additional terms to those in the SMTA when transferring such materials.

<sup>15</sup> Article 3 of the Nagoya Protocol.

<sup>16</sup> Except human genetic resources.

<sup>17</sup> Article 11.2 of the ITPGRFA states that “The Multilateral System, as identified in Article 11.1, shall include all plant genetic resources for food and agriculture listed in Annex I that are under the management and control of the Contracting Parties and in the public domain”.

<sup>18</sup> Article 12.3(a) of the ITPGRFA provides that “Access shall be provided solely for the purpose of utilization and conservation for research, breeding and training for food and agriculture, provided that such purpose does not include chemical, pharmaceutical and/or other non-food/feed industrial uses”.

<sup>19</sup> Article 15.1 of the CBD states that “[r]ecognising the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation”. Article 10.1 of the ITPGRFA provides that “[i]n their relationship with other States, the Contracting Parties recognise the sovereign rights of States over their own plant genetic resources for food and agriculture, including that the authority to determine access to those resources rests with national governments and is subject to national legislation”.

access permits and under which conditions, and to decide on whether to adopt a common policy, law and regulation or different policies, laws and regulations for resources under the two instruments. Participation of all relevant stakeholders in the legislation development process is highly recommended.

Looking at the broader international policy framework, Mr Drews highlighted that the growing importance of ABS is also reflected in the SDGs, adopted by the General Assembly of the United Nations on 25<sup>th</sup> September 2015,<sup>20</sup> which make explicit reference to ABS twice: SDG 2 (Zero Hunger), Target 2.5<sup>21</sup> stresses the importance of maintaining the diversity of plant and animal genetic resources for food and agriculture and calls for the promotion of ABS in relation to genetic resources and traditional knowledge; and SDG 15 (Life on Land), Target 15.6,<sup>22</sup> too, reiterates the necessity of providing for ABS. ABS is also indirectly relevant to the following SDGs: poverty alleviation (SDG 1); health and well-being (SDG 3); sustainable economic growth and employment (SDG 8); research and innovation (SDG 9); the sustainable use of marine resources (SDG 14); good governance and justice for all (SDG 16); and strengthening the global partnership for sustainable development and mobilising additional financial resources (SDG 17). ABS contributes to poverty alleviation by: i) improving the livelihoods of communities providing genetic resources and associated traditional knowledge through incentives for local valorisation and benefit-sharing, including knowledge and technology transfer; ii) ensuring food security through conservation and sustainable use of PGRFA within and outside the scope of the International Treaty, conservation of animal genetic resources for food and agriculture and the promotion of traditional knowledge and practices; and iii) encouraging local ownership and empowering IPLCs through the recognition of their rights, the value of traditional knowledge, customary rules and community protocols and their rights to negotiating PIC and MAT in national legislation. ABS also contributes to climate change resilience through incentivising the conservation and sustainable use of biological diversity which, in turn, increases ecosystems' resilience and supports adaptation to changing climate patterns. In particular, ABS creates incentives for conserving the diversity of plant and animal genetic resources for food and agriculture, which can be crucial for farmers to adapt to changing climatic conditions, and ensure benefit-sharing for the custodians of these PGRFA.

#### Implementing the Multilateral System for Development: Highlighting Links to the Nagoya Protocol

*Michael Halewood from Bioversity International* presented on the MLS established under the ITPGRFA and its contribution to national development while providing some considerations for national implementation in harmony with the Nagoya Protocol. The basic principle of the MLS is that in return for agreeing to put the genetic resources of sixty-four crops and forages listed in Annex 1 of the International Treaty into a global pool of genetic resources, Contracting Parties get access to the genetic resources of the same crops from all other Contracting Parties for research, plant breeding and training for food and agriculture as well as the genetic resources held by international organisations that have signed agreements with the Governing Body of the ITPGRFA to facilitate access to such *ex situ* collections (i.e. CGIAR centres and other international and regional research organisations). Not all genetic resources of the sixty-four crops that can be found in a Contracting Party are included in the MLS. By ratifying or accessing the International Treaty, Contracting Parties automatically include in the MLS plant germplasm that is under the management and control of the national government and in the public domain, but they do not automatically include genetic resources under the management and control of farmers, IPLCs or companies. Additional germplasm can be voluntarily included in the MLS by these and other actors, subject to applicable national laws, including laws implementing the Nagoya Protocol. The MLS is therefore an extraordinary way to pool, conserve and access a vast array of

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<sup>20</sup> See United Nations General Assembly Resolution A/RES/70/1 titled "Transforming our World: 2030 Agenda for Sustainable Development" available at <https://sustainabledevelopment.un.org/post2015/transformingourworld>.

<sup>21</sup> SDG2, Target 2.5 states that: "By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and promote access to and fair and equitable sharing of benefits arising from the utilisation of genetic resources and associated traditional knowledge, as internationally agreed".

<sup>22</sup> SDG15, Target 15.6 explicitly refers to the third objective of the CBD by: "Promot[ing] fair and equitable sharing of the benefits arising from the utilisation of genetic resources and promot[ing] appropriate access to such resources, as internationally agreed".

material and to share associated benefits. Access is for free or for minimum administrative costs and anyone in the Contracting Parties has the right to request and receive materials. Access conditions under the MLS are set in the SMTA; so too are benefit-sharing obligations. If anyone commercialises new PGRFA products that incorporate material that has been accessed from the MLS, they need to pay a 1.1% royalty of sales to the international benefit-sharing fund established under the ITPGRFA, provided they also restrict access to those products so that they cannot be used by others for research or breeding.

To date, there have been, globally, a little over two million samples transferred under 27 334 SMTAs, essentially to public research institutions, gene banks and universities. Very little is distributed to private companies to date. Approximately 20% of all materials distributed in the multilateral system – mostly from CGIAR centres – has been to recipients in Africa. These institutions contribute to development and food security. They search for useful and desirable traits. Hence, facilitated access to genetic material represents a major benefit. Other benefits include partnerships, networking, training, information exchange, capacity building, technology transfer, promotion and recognition of farmers and farming communities as stewards of biological diversity and the protection of traditional knowledge by encouraging states to put systems in place to share benefits arising from its use. The MLS was designed to accommodate unprecedented levels of genetic resource exchanges in support of food security and development and to encourage the entry of a wide range of new players, both as providers and users of crop genetic diversity. Still, the MLS is not used to its full potential. Because it is not self-implementing, countries have to put measures in place for it to operate. To take advantage of it, countries need to address a number of implementation issues. These are, among others: i) ensuring legal space to operate the MLS; ii) confirming what PGRFA are automatically in the MLS; iii) taking measures to encourage voluntary inclusions of additional genetic resources in the MLS; iv) establishing rules for *in-situ* genetic resources; deciding on processes for applications and decision-making; v) developing mechanisms for consultations with the CBD and Nagoya Protocol authorities for hard cases; vi) building the capacity of national users; deciding who is ultimately responsible to promote the implementation of the MLS; and very importantly, vi) deciding to implement the MLS on its own or together with the Nagoya Protocol. Mr Halewood emphasized that it has taken a long time to get to the point we are at now, with overtures being made between agriculture and environment, with lead agencies coming to the realization that they need to coordinate their efforts better.

#### Accessing and Using Genetic Diversity for Climate Change Adaptation

*Carlo Fadda and Gloria Otieno from Bioversity International* presented an overview of their research which involves accessing and using crop genetic diversity for climate change adaptation in Africa. In the face of climate change, African countries' agricultural production systems are being negatively affected by increasing temperatures, changing precipitation patterns and, generally, increasingly unpredictable weather conditions. It is predicted that the situation will get worse, with dire potential consequences for food security. Mr Fadda showed maps of Africa displaying where areas currently growing maize, sorghum, millets, and other crops will become progressively less suitable for growing those crops. In those areas, farmers will need to switch to new varieties or species that are adapted to the changing conditions. Mr Fadda and Ms Otieno shared results from research projects in Ethiopia, Benin, Burkina Faso, Ivory Coast, Madagascar, Rwanda, Uganda, Zambia and Zimbabwe where national teams of researchers – including national public research organizations, NGOs and farmer organizations – worked together to identify and participatorily evaluate a wide range of materials on research stations and in farmers' fields. Mr Fadda demonstrated how materials were distributed among farmers for testing, and how the farmers shared their observations using cell phones. The potentially adaptable germplasm can be found in several sources including from the farmers themselves, or from national genebanks, international genebanks hosted by the CGIAR, or from breeders. Ms Otieno showed the results of modelling work which demonstrated that, over time, as climates change, a decreasing proportion of materials in national genebanks will be potentially adapted and useful to farmers in the countries concerned. As a result, they will be increasingly reliant on materials from alternative sources. In the presented projects, the

researchers used Genesys as a source of information about potentially adapted materials in genebanks around the world. Much of the material identified through Genesys is in the multilateral system. Other materials are held by organizations (e.g. US Department of Agriculture – USDA; Vavilov Institute) in countries which are not ITPGRFA members, so other rules will apply, including rules to implement the Nagoya Protocol. The research demonstrated i) the importance of accessing a wide range of genetic diversity of crops to test and find materials that are adapted to local conditions, ii) that in the context of research on a single crop in a single climate change affected area, it will be necessary to access materials that are subject to national laws implementing the ITPGRFA, and other materials that are subject to national laws implementing the Nagoya Protocol, and that as result, iii) it will be very important for those agreements to be implemented in mutually supportive ways in the future. The research also demonstrates iv) that countries are generally going to become increasingly interdependent on genetic resources from within each other borders as they address climate change challenges, and v) that investing in the capacity of national actors to take advantage of the diversity that is potentially available under the ITPGRFA and Nagoya Protocol is crucially important.

#### Plenary Discussion

Following this series of presentations, participants discussed further the information provided by each presenter, the main points of which can be summarised as follows:

- *Selecting Crop Varieties for both Studies:* The varieties used in these projects, and other projects like them, can come from a range of sources, including materials identified by farmers in the affected areas as potentially well adapted, from national and international genebanks, from plant breeders in national and international agricultural research organizations. They could also potentially come from private sector if companies wanted to make materials available for such projects. In India, one such project participatorily evaluated cultivars that had previously been registered under Indian seed laws, but had fallen into disuse, or had never been successfully introduced and adapted by farmers.
- *Determining if a genetic resource is governed by the ITPGRFA or the Nagoya Protocol:* When determining if a request for a genetic resource is to be considered according to the MLS of the International Treaty or the Nagoya Protocol, a number of factors have to be taken into consideration, including first and foremost the national systems that have been put in place to implement those agreements. Entry level questions an interested party can investigate concerning the status of a genetic resource vis-à-vis the multilateral system are: Is the genetic resource in a country which is party to the International Treaty? Is it one of the crops or forages listed in Annex 1 of the Treaty? Who manages and controls it? Does the intended use of the material fall within the scope of the ITPGRFA, i.e. for conservation and use for research, training and breeding for food and agriculture? Depending on these and other variables, access to the genetic resource could be governed under national rules implementing the multilateral system of the ITPGRFA or under national rules implementing the Nagoya Protocol (or possibly neither). Implementing both instruments in a mutually supportive manner is essential for national authorities to identify which system applies when access to a genetic resource is sought.
- *Monitoring Royalty Payments to the Benefit-Sharing Fund under the ITPGRFA:* As per Article 6.7 of the SMTA, recipients of materials accessed from the MLS will pay 1.1 % of gross sales to the benefit-sharing fund established under the International Treaty if they commercialise new crop products that incorporate materials accessed from the MLS, and if they restrict others' ability to use such new crop products for further research and breeding. The MLS has put in place an international mechanism to assist in ensuring that users of plant genetic resources observe the terms and conditions defined in the SMTA, and in particular the benefit-sharing obligations. All transfers of materials using the SMTA must be reported to the Governing Body. All records are kept in a confidential data storage facility. Furthermore, users must provide information to the governing body concerning 'the Sales of the Product or Products by the Recipient, its affiliates, contractors, licensees' that are subject to these benefit-sharing conditions. Under

the SMTA, recipients and providers agree that a representative of the third party beneficiary (which is FAO) can request information from parties who are suspected of non-compliance with the SMTA, and may launch legal proceedings in such cases. For the system to work, it is critically important that national authorities ensure that all users of MLS material within their territory understand and use the SMTA. If a recipient of germplasm from the MLS does not use the SMTA for transferring that germplasm to subsequent recipients, the benefit-sharing obligations under the multilateral system will be lost, and the possible payments to the benefit-sharing fund will never be made. The very first condition to ensure that the payment is made is to pass on the SMTA to recipients, who will then become potential providers of the material. That said, the Benefit-sharing Fund has only been endowed with voluntary financial contributions of Parties to the ITPGRFA so far, but not from recipients under the 1.1 % royalty payment obligation – see below. Therefore, there are discussions underway to enhance the functioning of the MLS.

- *Attracting Industries to Participate in the MLS:* Materials accessed from the MLS can be incorporated in new PGRFA products. Those new products can be commercialised and subject to patents and other types of intellectual property rights. The requirement to make payments to the International Benefit-sharing Fund is triggered when a product is subject to legal (e.g., patents) or technological restrictions that prevent other users from utilising the product for further research and breeding. Because of this obligation, some seed companies that patent their plant products have chosen not to access germplasm from the MLS in their breeding programmes. This way, they are sure that they do not have to make payments to the Benefit-sharing Fund, and they will not need to expend resources tracking and tracing their uses of materials to be able to prove that they do or don't need to make payments.
- *Clarifying the Rights of Communities to Take Part in the Negotiations with Users:* The interaction between users of genetic resources and communities providing them and their associated traditional knowledge is important. Under the Nagoya Protocol, the involvement of communities is subject to domestic legislation. Under the ITPGRFA, the SMTA defines the terms and conditions of ABS and requires Contracting Parties and international agricultural research centres to provide access to their PGRFA according to the terms and conditions it lays down. Communities and individual farmers can request access to materials in the multilateral system as users. Indeed one indicator for success of the multilateral system is that community groups, working together with NGOs and national agricultural organizations will organize themselves to identify and access materials through the multilateral system. According to the text of the International Treaty, access to PGRFA within *in situ* conditions is still subject to national legislation or to standards as may be set by the Governing body in absence of national legislation (the Governing Body of the International Treaty has not yet developed such standards, though). In most countries, genetic resources managed and controlled by farmers and communities will not automatically fall within the MLS. Farmers may be permitted to voluntarily include it, but that would have to be subject to other applicable national laws, including laws implementing the Nagoya Protocol. As far as the participants and organizers of this meeting aware, there are not any national laws in place yet specifically implementing the ITPGRFA that set out detailed rules for accessing *in situ* materials in the MLS.

#### Access and Benefit-Sharing in Africa and the “Quadruple Win” Goal

*Pierre du Plessis from the ABS Initiative* stressed the importance of adopting multi-sectoral approaches to humanity's most pressing concerns, in particular, poverty alleviation and food security in a time of shifting climate zones. In 2013, the African Union (AU) adopted its Agenda 2063 which provides “a global strategy to optimise use of Africa's resources for the benefits of all Africans”. Agenda 2063 is both a vision and a plan of action with compelling guidance for African States to work together to build a prosperous and united Africa based on inclusive growth and sustainable development and where Africa's unique natural endowments, its environment and ecosystems are healthy, valued and protected with climate resilient economies and communities. It also envisions a modern and productive agriculture using science, innovation and indigenous knowledge and places a strong focus on technology transfer and human capacity development to build a

knowledge economy based on science, technology, research, innovation and education. In view of all this, ABS offers potential for a “quadruple win” outcome in relation to i) conservation and sustainable use of biological diversity; ii) benefit-sharing in the form of science, technology transfer, knowledge and education; iii) contribution to climate change adaptation through genetic and farming systems; and iv) poverty alleviation through economic growth and development, and through increased access to resources, increased social and natural capital. There is indeed no time to waste. Scientific and technical capacity especially in the field of biotechnology and, more recently, synthetic biology is developing fast and leaving Africa behind. A very rapid “disruptive” move away from “genetic resources” to pure “genetic information” is taking place. This means that genetic resources will no longer be the basis of research and development, and consequently benefit-sharing, but will be replaced by genetic information. In the information age, it is futile trying to control information flows. Africa must get proactive to respond to this wild explosion of digital, technology and scientific innovation by implementing international environmental agreements (MEAs) nationally and implementing national development policies related to biodiversity at the local level. There is an urgent need to coordinate the implementation of ABS in the region. ABS must be integrated into national economic development planning. Policies must be translated into legal rights (over land, resources and traditional knowledge) and supported by institutional and technical capacity at the level of local communities. The purpose of the innovative approach adopted at this workshop is to encourage the different national sectors to stop working in silos and start planning and acting together, with a quadruple local impact scenario as a goal.

#### Implementation of the Nagoya Protocol and the International Treaty on Plant Genetic Resources for Food and Agriculture in Africa

*Mahlet Teshome from the Department of Human Resources, Science and Technology at the AUC provided a brief overview of the background and development of the AU Guidelines and gave an AU perspective on the implementation of the Nagoya Protocol and the ITPGRFA in Africa. She explained that the AU Guidelines, adopted in June 2015, were developed to address a lack of coordination in matters of biodiversity and ABS at the continental level. A gap analysis was conducted and highlighted that, although the Organisation for African Unity (OAU) Model Law was still useful as it mainstreams the priority needs of African countries, there was a need to develop guidelines to assist Member States in the domestication and the implementation of the Nagoya Protocol. More details on the structure and the contents of AU Guidelines are provided in the section on the AU visit as well as in Annex 2 of this report. Looking at the interface of the Nagoya Protocol and the ITPGRFA, Ms Teshome emphasised that the AU Guidelines recognise the need for a continued elaboration and refinement for a coordinated African response on ABS, including the MLS on ABS of the ITPGRFA and the need for a mutually supportive implementation of both treaties. The AU Guidelines therefore encourage Member States, when implementing access measures, to be mindful of the scope of i) the ITPGRFA; ii) the MLS which facilitates access to PGRFA under Annex 1 of the International Treaty; and iii) the fact that not all AU Member States are Parties to the ITPGRFA. Ms Teshome concluded by providing additional detailed indications on issues to consider for an effective and mutually supportive implementation of both treaties, including, among others, the need for a coherent national approach to ABS, closer collaboration and coordination between national sectoral agencies and national focal points of both treaties and for the African Group to stay engaged and coordinate its position on on-going ABS related negotiations.*

#### Plenary Discussion

The following points are a summary of the main issues raised during the plenary discussion:

- *Farmers and Climate Change:* Farmers are contributing to gene banks and the conservation of soils and crops. Providing farmers with better seeds is indeed essential to adapt to climate change. Farmers must raise awareness about their role in maintaining and improving this biodiversity.
- *Biological Resources, Genetic Resources and Genetic Information:* While the discourse has been shifting to genetic resources and, increasingly, to genetic information and their value, participants emphasized that it

is nevertheless important to ensure that biological resources are equally valued. Genetic resources cannot be dissociated from biological resources and from biodiversity, and it is essential to be conscious of this fact when discussing links to broader policy processes and goals.

- *Multilateral Environmental Agreements or MEAs:* There is currently no mechanism to integrate the Nagoya Protocol, the ITPGRFA and MEAs at the AU level as yet, but there are agreements and organisations in the region that touch upon these cross-cutting issues and promote cooperation between countries. Some projects, such as the Capacity Building Project on MEAs, which is presented in section on the AU visit below, also assist countries with MEAs implementation.
- *The Role of the African Union Agenda 2063:* Agenda 2063 was adopted with the view that the current generations start planning ahead. Overall, it is an approach outlining how the continent should effectively learn from the lessons of the past, build on progress now underway and strategically exploit all possible opportunities available in the immediate and medium term so as to ensure positive socio-economic transformation within the next 50 years.<sup>23</sup> Agenda 2063 encapsulates a vision and eight ideals which will serve as pillars for the continent in the foreseeable future and aims to translate them into concrete objectives, milestones, goals, targets and actions to address new and emerging issues in the context of a rapidly changing world. All the documents the AU releases or is currently working on are aligned to Agenda 2063. The AUC is starting to work with Member States on the implementation phase to harmonise it in the region and significant actions are required on a number of fronts.

## Funding Options

### Funding Opportunities for the Implementation of the Plant Treaty and the Nagoya Protocol in the Context of Broader National Policies

*Jaime Cavalier from the GEF Secretariat* presented on the following two funding opportunities available to countries for supporting the mutually supportive national implementation of the Nagoya Protocol and the ITPGRFA:

- *The GEF System of Transparent Allocation of Resources (STAR):*<sup>24</sup> STAR is a system for allocating GEF's resources to countries in a transparent and consistent manner based on global environmental priorities and country capacity, policies and practices relevant to the successful implementation of GEF projects. However, co-financing is a requirement for all GEF-funded projects. Types of co-financing include grants, loans, guarantees and in-kind resources. Under the STAR, each eligible country has an indicative allocation – the funding that a country can access for the biodiversity, climate change mitigation and land degradation focal areas during a four-year cycle. Each country's indicative allocation is determined by calculating the country score, which combines the GEF Benefits Index for biodiversity, climate change and land degradation (GBI); the GEF Performance Index (GPI); and a social and economic index based on the Gross Domestic Product (GDPI). In other words, STAR allocates GEF resources among countries according to potential global environmental benefits, a country's ability to deliver those benefits and a country's economic development status. The main benefits of the STAR are the predictability of funding and the flexibility in programming which contributes to country ownership of GEF projects and programmes. Countries are allowed to adjust their focal area allocations according to different rules. Countries with a total STAR allocation of less than US\$7 million will have full flexibility to programme their allocation across the three focal areas. For example, countries could use the resource allocated to the biodiversity strategy and climate change mitigation strategy to implement the Nagoya Protocol and the ITPGRFA respectively. Alternatively, they could combine all the funding received for each focal area to implement both

<sup>23</sup> For more information, see the African Union website at <http://agenda2063.au.int/en/about>.

<sup>24</sup> For more information, please see the GEF's website at <https://www.thegef.org/gef/home>.

instruments in a mutually supportive manner. In GEF-6, forty-nine countries will benefit from this flexibility rule. Countries above this threshold will have a maximum allowed marginal adjustment of \$2 million to move to an elected focal area. Accessing these resources can be done in country-based or multi-country projects. Every GEF project must be endorsed by a GEF operational focal point to ensure consistency with national priorities and must be developed and implemented by a GEF Agency.

- *The Adaptation Fund:*<sup>25</sup> The Adaptation Fund was established to finance concrete adaptation projects and programmes in developing countries that are Parties to the Kyoto Protocol established under the United Nations Framework Convention on Climate Change (UNFCCC) and particularly vulnerable to the adverse effects of climate change. Countries considered as the most vulnerable are countries with low-lying coastal areas, countries prone to desertification and drought and countries that rely heavily on income from fossil fuel production and commerce. The Adaptation Fund is financed in part by government and private donors but mainly from the sales of certified emissions reductions issued under the Protocol's Clean Development Mechanism projects.<sup>26</sup> Eligible Parties can submit their projects directly to the Adaptation Fund Board through an accredited National Implementing Entity (NIE). A group of Parties may also nominate regional and sub-regional entities as implementing entities in lieu of NIEs. Parties can also submit their proposal through an accredited Multilateral Implementing Entity (MIE). NIEs and MIEs shall bear full responsibility for the overall management of the projects and programmes and carry out financial, monitoring and reporting responsibility. Proposals also require endorsement by the Designated Authorities of the country in which the proposed activities would take place. Food security is the relevant focal area for any project related to the mutually supportive implementation of the ITPRGFA and the Nagoya Protocol.

#### Plenary Discussion

In the plenary discussion that followed, some participants stated that any project that reflects the reality on the ground would inevitably have to be designed keeping in mind all the fields addressed in this workshop, i.e. should combine matters of ABS (under both treaties), agriculture, climate change, rural development and poverty alleviation. Others highlighted that, on many occasions, GEF operational focal points did not know the process to follow to proceed with project applications to access GEF resources. They then discussed other opportunities for funding such as the GEF resources to build capacity of institutions responsible for the ratification of a protocol or to provide support to countries where it is needed, with the exception of national implementation. Other opportunities/sources of funds were indicated as follows: i) the Cross-Cutting Capacity Development which provides targeted support to countries to strengthen their capacities to meet their commitments under the Rio Conventions and other MEAs;<sup>27</sup> ii) the National Portfolio Formulation Exercise to organise a one or two day workshop for programming GEF resources;<sup>28</sup> and iii) the National Dialogue Initiative to bring ministers together for definition of priorities.<sup>29</sup>

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<sup>25</sup> The GEF provides secretariat services on an interim basis for the Adaptation Fund and hosts the Adaptation Fund Board. For more information, please see the Adaptation Fund's website at <https://www.adaptation-fund.org/>.

<sup>26</sup> The Clean Development Mechanism allows emission-reduction projects in developing countries to earn certified emission reduction credits. These certified emissions reduction credits can be traded, sold and used by industrialised countries to meet a part of their emission reduction targets under the Kyoto Protocol. This mechanism stimulates sustainable development and emissions reductions while giving industrialised countries some flexibility in how they meet their emission reduction limitation targets. For more information, see the website of the United Nations Framework Convention on Climate Change at <http://cdm.unfccc.int/>.

<sup>27</sup> For more information, see the GEF's website at [https://www.thegef.org/gef/capacity\\_development](https://www.thegef.org/gef/capacity_development).

<sup>28</sup> For more information, see the GEF's Website at [https://www.thegef.org/gef/National\\_Portfolio\\_Formulation\\_Exercises](https://www.thegef.org/gef/National_Portfolio_Formulation_Exercises).

<sup>29</sup> For more information, see the GEF's Website at [https://www.thegef.org/gef/CSP\\_ND](https://www.thegef.org/gef/CSP_ND).

## Survey Results on National Planning Process

### Feedback on Survey

*Michael Halewood from Bioversity International* provided highlights of the results of the survey sent out to the participants prior to the workshop. The text of the survey, which was conducted in both French and English, is included in Annex 1 of this report. Forty-four responses were received from the participants at the meeting, in their capacities as representatives of government offices dealing with agriculture and climate change adaptation, ministries of finance/planning and national/operational focal points of the GEF, the ITPGRFA and the Nagoya Protocol. Overall, the respondents reported relatively higher levels of interaction between GEF focal points and Nagoya Protocol focal points, and between ITPGRFA and Nagoya Protocol focal points, and between GEF operational focal points and Ministries of finance and planning. By contrast, representatives of government offices dealing with agriculture and climate change adaptation reported rarely meeting with representatives of the ministry in charge of finance and planning, Nagoya Protocol focal point or the ITPGRFA focal point. Responses from the participants regarding their involvement in developing key national plans and strategies were highly variable. Nagoya Protocol and ITPGRFA focal points reported they were rarely, or never involved in developing National Development Strategies, or Mid-term Expenditure Frameworks. In addition, Nagoya Protocol focal points were also rarely or never involved in developing national agricultural development plans, National Adaptation Programs of Action (NAPAs) or rural development plans. Only two of the eight ITPGRFA focal points responded that they were frequently involved in National agricultural development plans and NAPAs; the rest were involved occasionally (3) or not at all (3). More than half of the respondents dealing with climate change and agriculture reported never or rarely being involved in developing national strategies to advance the economic development and rights of indigenous peoples or local communities. The Nagoya Protocol focal points indicated they were frequently consulted for the development of national biodiversity strategies and action plans (NBSAPs). Half of the ITPGRFA national focal points also reported to be involved in the development of NBSAPs. Regarding the involvement of the five groups of respondents in government negotiations for bilateral development cooperation, only GEF operational focal points reported having a high involvement in this process. The ITPGRFA focal points reported the lowest levels of bilateral financial support for their work; the Nagoya Protocol focal points reported the most. The respondents' perceptions about whether or not the ITPGRFA or the Nagoya Protocol were mentioned in eight key (listed) national plans or strategies were very different, with very little overlap in answers provided by the five groups of respondents.

## 3. Examining Potential Synergies for More Integrated Policy and Program Development at National Levels: A Seven Step Process

### Introduction

The overall objective of this series of group 'stocktaking' exercises was to clarify the potential for synergies between the five groups of participants represented in the workshop (i.e. ministry of finance/planning, climate change adaptation in agriculture, Nagoya Protocol focal point, ITPGRFA focal point and GEF operational focal point) and identify steps to activate this potential through:

- A stocktaking exercise in country teams and discussions in and between country teams;
- A reflection exercise in peer groups, discussions on roles and responsibilities in the plenary and the presentation of first conclusions drawn based on both the stocktaking and peer exercises;

- A discussion on the way forward in country teams and the exchange of mutual feedback in the plenary.

### Stocktaking in Country Teams

The overall objective of this first exercise was for the participants to explore and reflect in their country teams on topics and processes of common interest and/or responsibility. To do so, the exercise was divided in three different steps.

#### Step 1: Landscape of Topics

Participants were asked to take few minutes to note down individually five to seven main topics falling under their own responsibility. Then, they were asked to explain to each other what the different topics implied, clarify which topics were the same or related (e.g. by content, objective or actors) and arrange the identified topics on a board. It was indicated that, for instance, traditional knowledge documentation, plant variety protection law, farmers' rights, food security, mitigation strategy, NBSAPs, climate change adaptation plans, scientific research or STAR programming were topics that could possibly come up in their group discussions.

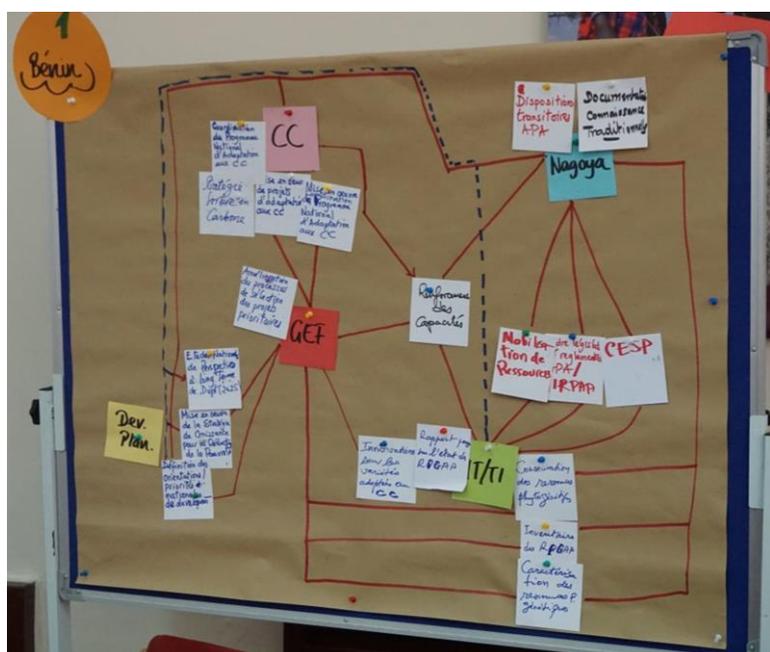


Figure 1: Step 1 of the group exercise (Landscape of topics – example from Beninese team).  
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#### Step 2 – Timeline of Processes (Reality Check)

Each team member was asked to note down the main processes (strategies, planning, consultations or other processes) from 2012 to 2020 that fall under their mandate. Then, they were asked to explain to the other members of their team what the different processes were and implied (e.g. by content, objective or actors). Each country team was encouraged to discuss any point where they could have an impact by working together or contribute to another mandate (how and why) in order to have a bigger picture and see which processes were parallel or complementary. As a final directive, each team was asked to arrange the identified processes on a board provided to this effect.

### Step 3: Initial Conclusions

For the final step of this exercise, each country team was asked to look back at the results of their stocktaking (topics and processes) and deliberate on the following questions:

- What do you observe in your results? What catches your eye?
- What are some initial conclusions that you can draw from these results?

Each country team was asked to note down at least five of the most relevant conclusions on a flipchart.

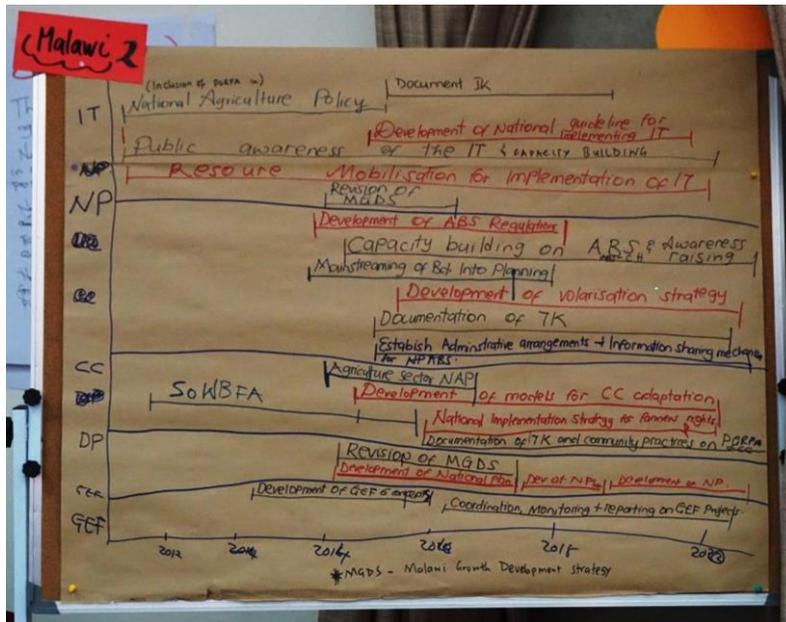


Figure 2: Step 2 of the group exercise (Timeline of Processes – example from Malawian team).  
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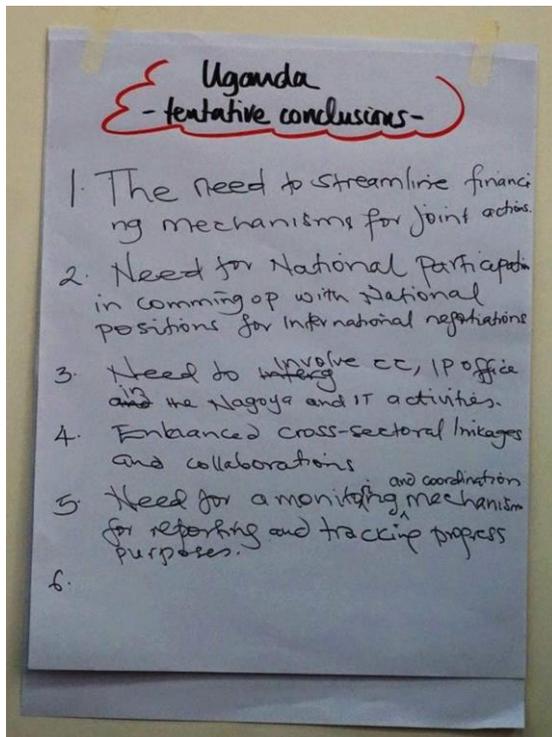


Figure 3: Step 3 of the group exercise (Initial Conclusions – example from Ugandan team).  
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## Reflection and Reporting Back

Each country team presented a brief summary of the results of their deliberations in plenary. Each country team's results and presentations were then put on display for all the country teams to comment and exchange with each other. Tentative conclusions presented by each country team are summarised below and highlight a number of commonalities:

- All mandates and their activities are linked. There is therefore a need to activate the potential synergies between them. For example, all focal points are targeting similar stakeholders and communities. As such, they can develop joint capacity building and awareness raising initiatives.
- A number of cross-cutting issues, such as, among others, capacity building, resource mobilisation, awareness raising and communication, can be observed. There is therefore a need for all the mandates to work together on these cross-cutting issues to enhance cross-sectoral linkages and collaborations and maximise the limited resources at their disposal.
- All processes are happening simultaneously. This can be seen as an opportunity to develop concerted efforts and tools for a more comprehensive implementation of all processes.
- There is an obvious need for creating a coordination system or platform to facilitate and enhance the synergies between mandates.
- Joint legislation, strategies and plans can be developed and serve as an umbrella for sectoral implementation.
- There is a need for collaboration and coordination between the various institutions implementing international conventions.
- There is a need to involve climate change officials and intellectual property offices in the activities related to the implementation of the Nagoya Protocol and the ITPGRFA.
- There is a need to streamline financial mechanisms for joint activities/actions and the elaboration of integrated projects.
- There is a need to strengthen infrastructure and human resource capacity.
- There is high need for the various sectors to mainstream their areas of focus into development planning and policy. This can be done together.

## Stocktaking in Expert Teams: Overall Implications

### Step 4 - Needs of the Different Mandates

Participants were divided into five groups corresponding to their professional positions/responsibilities (i.e. Ministry of finance/planning climate change adaptation in agriculture, Nagoya Protocol, ITPGRFA and GEF). The five groups were asked to reflect on the discussions they had had in their country teams during the previous exercise from the viewpoint of their mandate and discuss their main observations, what opportunities they could see and what their concerns were. They were then asked to note down what they needed from the other mandates to improve the situation and to be as specific as possible.

### Reporting Back: Sharing Results and Exchanging Views

The expert teams shared and discussed the results of their deliberations with each other. The main needs from the other mandates identified by each expert team are summarised below:

- *ABS National Focal Points:* (i) Cooperation in resource mobilisation and utilisation. In this regard, the GEF is instrumental in mobilising resources for the national implementation of all MEAs; (ii) information sharing and updates in relation to programmes, activities or partnerships; (iii) prioritisation of issues related to the utilisation of biodiversity, especially genetic resources and the mutually supportive national implementation of the Nagoya Protocol and the ITPGRFA in national plans; (iv) more active involvement of the other mandates in activities related to the Nagoya Protocol and the ITPGRFA; and (v) streamlining ABS processes and mandates to avoid conflicts and overlaps with other mandates.
- *ITPGRFA National Focal Points:* (i) Collaborate and build synergies with other mandates to form country teams for planning and implementation of projects and programmes; (ii) joint resource mobilisation for project development and implementation; (iii) establish information sharing platforms; and (iv) take into account the concerns raised by the different mandates in national development plans. The first three points could also be extended to the sub-regional and regional level.
- *GEF Operational Focal Points:* (i) There is a lack of awareness of GEF funds; (ii) there is also a lack of strong synergies among different mandates; (iii) more communication between all focal points is necessary; (iv) GEF operational focal points need capacity building and have to be integrated in an institutional framework, to ensure that their responsibilities and tasks are clear even if staff in charge changes. The group also discussed the various GEF funding opportunities i.e. grants, non-grants, STAR funds and non-STAR funds including the Adaptation Fund. The latter provides opportunity for funding projects integrating the implementation of the Nagoya Protocol, the International Treaty and climate change related actions, including the possibility to develop a regional project with same global objectives but with different approaches or activities in eight countries based on national needs and circumstances. The GEF can also provide capacity building activities and training for all the focal points.
- *Ministry of Finance/Planning:* (i) Establish a planning platform for a better coordination, more synergies and consultations of all the stakeholders and other mandates; (ii) adopt appropriate regulatory frameworks to implement both instruments and raise development planning officials' awareness about them to enhance national policies; (iii) develop integrated and coordinated programmes or plans which address the different mandates and (iv) raise awareness about the various funds available.
- *Climate Change Adaptation in Agriculture:* (i) Identify funding opportunities for mitigation and adaptation within the framework of the Nagoya Protocol and the International Treaty; (ii) strengthen coordination between climate change experts in the implementation of both the Nagoya Protocol and the International Treaty; (iii) identify key climate change activities within the Nagoya Protocol, the International Treaty and the GEF; (iv) support coordination of all sectoral activities in the national implementation of both treaties; and (v) draw attention to the need for climate change experts to work closer to the communities during the national implementation of both treaties.

## Plenary Discussion

Reviewing the results of the expert team exercise, participants highlighted that:

- Overall, concerns were similar as the ones identified in the previous exercise: the need for synergies, coordination and integration in national planning of all the mandates' responsibilities.
- The key to integrating the work of the different mandates was to focus on the local community level, how implementation happens at this level and how to develop suitable projects for communities. In other words, any plans or projects must make sense at the local level.

- Countries seem to have similar problems regardless of their circumstances. Some best practices could be developed and exchanged between countries. Such best practices, if they work, may eventually be transformed into a common plan for the benefit of all countries in the region.
- Responsibilities are spread across the different mandates and sometimes hidden. They therefore need to be pulled together so they can have more visibility so that funds could be raised more easily, including funding for communities.
- Resources are important but they are often spent inefficiently. Some unnecessary activities should be avoided and resources allocated to more useful and strategic activities. Indeed, a lot can be achieved in terms of building synergies, working together, communication, etc. without spending necessarily too much money. People can simply share what they are doing and adopt a coordinated approach on various issues.
- To address these issues more comprehensively, countries should look at them from a higher level such as coordinating the implementation of MEAs at national level in the region.
- To create more synergies, the fluidity of information and the level of communication between the various mandates should be reinforced at national, sub-regional and regional levels through existing structures that already deal with integrated programmes to facilitate synergies.
- Overlapping areas and the capacity of the different mandates to deal with them could be identified to avoid conflicts between ministries.

The discussion then focussed on possible ways to finance this type of coordination at regional level. Some participants suggested that since the various mandates were facing the same challenges and disconnection between focal points, short-term planning, policies, etc., they should work together to raise the profile of these issues through the development of a joint proposal/project. This would, in turn, facilitate the process of raising or accessing funds for the implementation process. Participants agreed that a regional approach to address these issues was actually a good way forward. A few participants were of the opinion that the role of the AU was to support and facilitate such a regional and coordinated approach which would also address the mutually supportive implementation of the Nagoya Protocol and the ITPGRFA. A number of participants highlighted the lack of financial resources and plans for the local level. They stressed that although resources were not available at community level, all the work done at a higher level should also benefit communities. Finally, some participants indicated that decentralisation was necessary to transfer competencies and resources to the local level. They also mentioned that dividing a country in different regions could facilitate local economic development. Likewise, to support any decision-making process, a country could initiate a round of regional consultations within its borders to seek advice from a number of stakeholders, including IPLCs, identify their concerns and set priorities.

### **Country Teams: Reflections & Approaches for Coherent Planning**

The aim of this exercise was to give the country teams an opportunity to reflect on the previous exercises and to discuss effective ways to improve coordination, collaboration and the mutually supportive implementation of the Nagoya Protocol and the ITPGRFA in their respective countries.

#### **Step 5 – Practical Options at National Level**

The country teams were asked to discuss practical options to make coordination in their respective countries more effective between the different mandates and to mobilise resources for a coherent implementation of the Nagoya Protocol, the ITPGRFA and climate change policies.

## Sharing Results

Each country group provided a brief feedback on the practical options they proposed. For a more effective coordination, most countries recommended i) establishing platforms, committees or using functional existing structures to reinforce the communication and collaboration between the different mandates; ii) raising awareness on issues related to the Nagoya Protocol and the ITPGRFA and their link with food security, poverty alleviation and climate change; and iii) develop a national biodiversity conservation and use policy by facilitating consultations on the different aspects with all the stakeholders concerned. As for practical options to mobilise funds for a coherent implementation of both instruments and climate change policies, most countries recommended essentially to i) develop joint proposals to submit to government development funds, the GEF or other potential donors; ii) provide training and capacity building on resource mobilisation; iii) include mandates' priorities in the national development plan; and iv) make a business case for private sector involvement.

## Plenary Discussion

A few participants observed that, although a few countries suggested using existing structures, a large number of countries planned to establish new committees or platforms to facilitate the coordination of the various mandates and questioned the financial practicality and feasibility of such propositions. On the other hand, other participants highlighted the ineffectiveness of the majority of existing committees and the need to identify functioning platforms and what they could learn from them to ensure a proper and efficient communication between the mandates. Finally, some participants stressed the importance of ensuring that the message will make sense to policy makers in order for these issues of concerns to be integrated in their plans and strategies.

## Developing Country Roadmaps

### Step 6 – Reflection in Country Team

The purpose of this exercise was to reflect on all the issues discussed so far from the viewpoint of rural communities - for example, what kind of perspectives rural communities could bring to their government on all these issues, what could governments do and what message would make governments address effectively these problems, etc. Each country team was asked to put themselves in the shoes of a local community of their own country and reflect on the following question:

- What would you need your government representative to communicate to you that would make sense of what we have been discussing here this week in a way that you could act on?

## Reporting Back

Most country groups highlighted that it was essential for rural communities to understand all the issues related to the utilisation of genetic resources and their linkages with the challenges of food security, poverty alleviation and climate change as well as the types of benefits, monetary or non-monetary, which could be generated to improve the livelihood of communities. Some groups stressed the need for these communities to be advised on how their traditional knowledge could be protected to prevent misappropriation and on how to add value to their knowledge to create economic opportunities. Similarly, the protection of farmers' rights and the recognition of farmers' contributions to the conservation and development of PGRFA were seen as a prerequisite to develop local economies and raise the standard of living of rural communities. Some of the most pressing needs identified were therefore the necessity to provide legal support and build the capacity of communities on the ABS systems developed under the Nagoya Protocol and the ITPGRFA, how they relate to each other and how communities could benefit from granting access to their genetic resources and traditional knowledge. A few country groups suggested developing a step-by-step tool that clarifies access procedures and

benefit-sharing mechanisms under both treaties as well as how to deal with each issue that may arise. Other groups insisted on the need to support rural communities to access financial resources such as the GEF or other international mechanisms to assist them in their conservation and climate change adaptation efforts. Finally, most groups agreed that governments must start taking into consideration the reality of the challenges faced by communities and integrate them in future development planning.

#### Plenary Discussion

Reflecting on the results of this exercise, some participants commented that ABS policies did not seem to really take rural communities into consideration and concentrated more on research and development than on the work done by local farmers and communities to conserve the diversity of genetic resources. As a result, ABS efforts appear to improve the formal system while neglecting the informal system at the rural level. They highlighted that this issue must be addressed in future work and agendas. Other participants stressed that the different mandates within governments must organise and coordinate themselves to be in a position where they could better inform communities and communicate more clearly the challenges and opportunities of ABS. ABS is complex and messages directed to rural communities must be clear and in a language accessible to them.

#### Step 7 - Next Steps

Each country team was asked, based on all the results of the exercises done, to discuss what they can/could do to catalyse actions on the nexus of ABS, food security, poverty alleviation and climate change and agree on at least five concrete actions they would take in the coming weeks to move this process further. Given the potential sensitivity of this subject matter, they were not asked to write it down for inclusion in the report.

## 4. Visit to the African Union Commission

### Introduction

The visit was organized to allow the participants an opportunity to provide their perspectives to the Permanent Representatives Committee of the AU on the themes of the meeting.

### Welcoming Remarks

*Mahlet Teshome from the Department of HRST at the AUC welcomed the participants to this very special session of the workshop taking place at the African Union headquarters.*

*Mr Hambani Masheleni, Senior Policy Officer representing the Director of the Department of HRST welcomed the participants on behalf of the AU Commissioners. He highlighted the importance of exchanging information on the on-going activities and the significant efforts undertaken to implement ABS at regional and national level in Africa. He indicated that the AUC believed that the mutually supportive implementation of the Nagoya Protocol and the International Treaty was essential. Given that twenty-nine Members States of the AU have already ratified the Nagoya Protocol and forty-three are Contracting Parties of the ITPGRFA, issues of cross-fertilisation in national planning and policy making processes where ABS has potential to make important contributions, especially regarding poverty alleviation and climate change which are at the heart of the discussions planned during this workshop, must be given due consideration. Furthermore, the AU Guidelines adopted to harmonise the implementation of the Nagoya Protocol in Africa, also emphasise the need for mutually supportive implementation. Mr Masheleni concluded his remark by stressing the importance of building the capacity of AU Member States and ensuring that Africa is well-prepared for the negotiations taking place under both instruments.*

## Briefing on the Mutually Supportive Implementation Initiatives

### Briefing on the Workshop Initiative and Objectives

Briefs remarks were made by *Kathryn Garforth from the SCBD; Kent Nnadozie from the Secretariat of the ITPGRFA; Andreas Drews from the ABS Initiative and Michael Halewood from Bioversity International*, who introduced the objectives of the workshop and provided a brief overview of various initiatives and partnerships supporting the mutually supportive implementation of the Nagoya Protocol and the International Treaty.

### Briefing on the African Union Guidelines for the Coordinated Implementation of the Nagoya Protocol on Access and Benefit-Sharing

*Mahlet Teshome from the Department of HRST at the AUC* provided a brief overview of the structure within the AUC dealing with multilateral issues related to biodiversity and ABS-related issues. She then gave a detailed account of the background and key milestones that marked the development of the AU Guidelines. The process leading to the adoption of the AU Guidelines was put in motion by conducting a gap analysis of the OAU Model Law in 2011. The on-going work done by the AUC on the AU Guidelines was then officially endorsed by the African Ministerial Conference on the Environment (AMCEN). An extensive series of consultations, including two expert meetings and a validation workshop, in which a wide range of stakeholders (government officials, IPLCs, and other relevant interested parties) were involved took place until the document was ready for endorsement at the General Assembly of the AU in June 2015. The AU Guidelines consist of two separate but inter-related parts. The first part, the Strategic Guidelines, provides policy and strategic guidance for a coordinated approach to the implementation of the Nagoya Protocol in Africa. The second part, the Practical Guidelines, is a practical hands-on tool and step-by-step guide providing detailed technical guidance and background considerations to assist the development and implementation of ABS systems at national and local levels. The AU Guidelines therefore aim to facilitate coordination and cooperation between African countries and African stakeholders around ABS implementation and provide practical guidance on how national ABS systems can be implemented in a regionally coordinated manner. In a way, the AU Guidelines address the five key areas addressed in this workshop by promoting the utilisation of Africa's genetic resources and associated traditional knowledge to support technology transfer, food security, economic growth; encouraging conservation and sustainable use of biodiversity; and facilitating the establishment of common African standards. The policy guidance calls on Member States to ensure that adequate legislation is in place. It compels them to cooperate in developing compatible continental and regional procedures on ABS and ensure that consent of IPLCs is obtained for access to and use of their genetic resources and the traditional knowledge associated with them and that MAT have been established. The policy guidance also encourages the mutually supportive implementation of the ITPGRFA with the Nagoya Protocol (while it does not include many details about how countries can implement the ITPGRFA in general or its multilateral system of ABS, though); research and the development of intellectual property in Africa; transboundary cooperation in instances where genetic resources and associated traditional knowledge are sourced from two or more Member States; compliance with PIC requirements and MAT through the use of checkpoints and IRCC in accordance with Article 17 of the Nagoya Protocol as well as through regular and systemic information exchange, covering this aspect thoroughly for the different levels (local, national, regional). Finally, it calls on Member States to allocate financial and other resources to support efforts towards the coordinated implementation of the Protocol and on the AUC, in collaboration with the Regional Economic Communities (RECs), to establish a coordination mechanism for the implementation of the Nagoya Protocol in Africa.

## On-Going Initiatives at the Level of the African Union Impacting the Mutually Supportive Implementation of ABS in Africa

### *Capacity Building Project on Multilateral Environmental Agreements*

*Livingstone Sindayigaya from the Department of Rural Economy and Agriculture (DREA) at the AUC* informed the participants that the AUC, with support from the European Union, established the Capacity Building Project on Multilateral Environmental Agreements (MEAs Project) in 2009, with the United Nations Environment Programme (UNEP) as the overall facilitator, to respond to the concerns expressed by African countries of the African, Caribbean and Pacific (ACP) Group of States regarding their lack of capacity to implement MEAs. The MEAs Project's main objective is therefore to strengthen and enhance the capacity of African ACP countries to effectively implement MEAs and related commitments, leading to sound management of the environment and natural resources. The Project focuses on supporting African ACP countries and RECs through capacity enhancement exercises in the fields of negotiation and implementation; enforcement; mainstreaming; development of tools, guidelines and legislation on MEAs and MEAs-related issues; promotion of ratification and implementation of conventions; awareness creation; and reporting and information dissemination and exchange. Activities formulated under these areas are implemented in collaboration with relevant partners in the interest of synergy. Since 2009, the Project, which covers forty-nine African ACP countries, has registered remarkable achievements in all the above areas, particularly in relation to the enhancement of negotiation skills, regional and sub-regional cooperation, compliance and enforcement of MEAs at national and regional levels through laws and strategy development, the improvement of exchange as a result of the establishment of the African Hub Database and the enhancement of the level of awareness and knowledge of policy makers, officials, youth and researchers on MEAs. A number of constraints were also identified. These are, among others, the low awareness of the general public, the limited commitment of policy makers, the limited involvement of the legislative in MEAs negotiation and implementation, the high rate of turn-over of focal points resulting in a loss of institutional memory, the weak collaboration between technical institutions and other stakeholders, and insufficient mechanisms for reporting and information exchange. Mr Livingstone concluded his presentation by highlighting the linkages between the MEAs project and the activities of the Department of HRST and recommending developing synergies between the Department of REA and the Department of HRST to maximise the use of financial resources.

### Plenary Discussion

The following is a summary of the issues discussed:

- *ABS at the AUC:* Through the development of the AU Guidelines, the AUC has played a key role in mainstreaming and enhancing the visibility of ABS in its Member States. The adoption of the AU Guidelines is indeed an important step towards a coordinated domestication of the Nagoya Protocol in the region. More efforts are now required to support Member States to implement the Nagoya Protocol and the ITPGRFA in a mutually supportive manner. Both instruments as well as the AU Guidelines recognise the need for a mutually supportive implementation. However, neither of them provides any details on how to do so. The AUC is currently engaged in different processes relevant to the International Treaty, such as, among others, the development of a 'decision-making tool' to assist countries with the implementation of the ITPGRFA; the Comprehensive Africa Agriculture Development Programme;<sup>30</sup> the MEAs Project – as described above; and, naturally, the promotion and implementation of the AU Guidelines. All this work is done in different phases, including the mobilisation of financial resources. It is hoped that adequate funding will enable the AUC to carry on focussing its efforts on coordinating activities between Member States to support the mutually supportive implementation of the Nagoya Protocol and the ITPGRFA, including capacity building and training.

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<sup>30</sup> For more information, see the following websites: <http://pages.au.int/caadp/about>.

- *The AU Guidelines and Agenda 2063*: All strategies and policies currently being developed by the Department of HRST are aligned to the Agenda 2063. The AU Guidelines therefore follow its vision and aspiration.
- *A 'Decision-Making Tool' to Assist with the Implementation of the ITPGRFA*: The 'Decision-making tool for developing national policies to implement the multilateral system of access and benefit-sharing', developed by Bioversity International, presents various options for countries to consider when implementing the MLS of the ITPGRFA. It could, once finalised, accompany the AU Guidelines and assist with the mutually supportive implementation of the Treaty and the Nagoya Protocol. The first draft was developed by a small group of experts in 2015 and is currently being revised by ten countries, the AU and other experts. When this second revision will be ready, the document will be circulated for additional comments. It will then be tested in a workshop to identify potential gaps. The 'decision-making tool' has been designed to address fundamental questions to be asked in relation to the national implementation of the International Treaty, providing options to address the issues that need to be dealt with in the implementation process, such as, among others, coordination or procedures for handling requests for access. One of the fundamental questions is about the decision to establish a centralised or a decentralised model and how to operate them. The tool also provides examples of draft legal texts implementing the MLS.
- *Digitalisation of the Information*: Some participants discussed the possibility of funding a project on the digitalisation of all the ABS-related information necessary to facilitate the cooperation between the different ministries and mandates on common challenges arising from the coordinated implementation the Nagoya Protocol and the ITPGRFA. The ABS Initiative informed the participants that it was currently running a pilot project to develop a tool that allows countries to digitally track the utilisation of their genetic resources. It is envisaged to extend this experience to several countries in Africa in order to develop a standardised information system that will facilitate the monitoring of the use of genetic resources and associated traditional knowledge.
- *Transboundary Issues, Food Security, Poverty Alleviation and Climate Change*: The transboundary nature of genetic resources and traditional knowledge, along with other pressing challenges such as climate change, food security, poverty alleviation and climate change, require coordination and cooperation between countries as well as the pooling of available resources. The AUC has a key role to play in highlighting the importance of genetic resources and PGRFA for food security, poverty alleviation and mitigating and adapting to climate change and advancing collaboration efforts on these issues in the region.
- *Financial Collaboration between the Department of HRST and the Department of REA at the AUC*: Both departments often put their resources together to carry out various activities (workshops, guidance notes, communications, etc.). Both departments also currently work together on proposals to raise funds with other donors than the European Union.
- *ABS and Research in Africa*: Countries' commitment to move forward ABS issues in Africa is commendable. Africa must also invest in research and intellectual property creation so that African countries can go beyond being a supplier of 'raw' genetic resources and get into the business of value addition.
- *Protection of Resources in Conflicting Areas*: The problem of instability in the sub-regions has significant impacts on the environment and the preservation of genetic resources. To address these issues, the AUC put in place a division/department that deals with conflicts. The Department of Agriculture and Livestock also deals with the risks and conflict areas.

## Messages to the African Union Commission

Designated spokespersons, speaking on behalf of the representatives of each of the five groups of participants, delivered messages to the AUC reflecting their concerns and priorities. These messages provided, on the one hand, a synthesis of the results of the various group discussions which took place during the workshop and, on the other hand, some thoughts to enhance the mutually supportive implementation process of both treaties.

### ABS National Focal Points

ABS national focal points congratulated the AU on the development and adoption of the AU Guidelines and welcomed this opportunity to discuss with AU officials. They commended the cooperation efforts between the AU, the ABS Initiative, the Secretariat of the CBD and the International Treaty and Bioversity International to advance a coordinated implementation of the Nagoya Protocol in Africa. Nevertheless, they noted that more support and involvement from the AU was required in relation to:

- The coordinated and mutually supportive implementation of the Nagoya Protocol and the ITPGRFA;
- Raising awareness of and sensitising decision-makers on ABS related issues;
- The development of regional projects related to biodiversity;
- International negotiations on matters related to biodiversity; and
- The allocation of funds necessary to ensure the effective functioning of the Department of HRST at the AUC and enable it to provide its support to focal points and negotiators, particularly in relation to the harmonisation of their positions prior to international negotiations on biodiversity.

### ITPGRFA National Focal Points

The key messages of the ITPGRFA national focal points were that the AU needed to:

- Support regional preparations and consultations prior to international negotiations and build capacity of negotiators;
- Give the International Treaty more focus and attention so that implementation of the ABS issues in both the Nagoya Protocol and the MLS of the Treaty move in tandem; and
- Provide policy guidance on implementation of Farmers' Rights.

### Climate Change Adaptation in Agriculture

The message from the representatives from departments responsible for climate change adaptation planning in agriculture was as follows:

The workshop on mutually supportive implementation of the International Treaty and the Nagoya Protocol of the CBD has been very useful in the identification of synergies within the climate change operational frameworks and has helped to open up platforms for dialogue among the mandate representatives as well as various organisations present during the workshop. To ensure effective implementation of climate change mitigation and adaptation mechanisms through conservation and sustainable use of biodiversity for sustainable livelihoods and food security, the following issues need be taken into consideration:

- Climate change is a cross-cutting and complicated subject. Support in capacity building for climate change experts at national and regional level to enhance their understanding of the issues on climate change for effective implementation is therefore critical.
- Availability of resources is one of the major challenges experienced in most countries. It is therefore essential to collectively discuss and solicit funding opportunities for climate change activities implementation in line with the Nagoya Protocol and the International Treaty.
- Support in the identification of key priorities and activities on how best climate change interventions can be integrated with the International Treaty and Nagoya Protocol undertakings is needed. This could be facilitated through putting in place effective institutional arrangements and information exchange platforms so that lessons can be drawn from member countries' success, challenges and

solutions to challenges during the course of implementing the Nagoya Protocol and the International Treaty in a harmonised way.

- Despite the adoption of the AU Guidelines and taking into account the various sectors involved in biodiversity, such as forestry, wildlife, agriculture, aquatic resources and many more; there is a strong call to support effective coordination and joint planning, especially at national level, of all sectoral activities on genetic resources with a focus on both the Nagoya Protocol and the International Treaty.
- Developing effective mechanisms at national and regional levels to involve local communities in the mutually supportive implementation of the Nagoya Protocol and the International Treaty is necessary. Learning from their experiences and traditional practices is essential to find synergies between scientific and indigenous strategies for climate change mitigation and adaptation within the Nagoya Protocol and the International Treaty.

#### GEF Operational Focal Points

The representative of GEF operational focal points commended the AUC for its efforts and thanked the AU officials and the organisers of the workshop for this opportunity to express their concerns and suggestions. These were as follows:

- The low level of awareness of regional institutions about the GEF;
- The lack of synergies between GEF operational focal points and the Convention focal points;
- The lack or poor level of communication between all the focal points;
- The need for capacity building of the GEF operational focal points ;
- The lack of adequate institutional frameworks to accommodate operational focal points.

In conclusion, the GEF operational focal points suggested the development of a regional capacity building project that could be financed by the GEF non-STAR resources.

To this end, they stated that they would support all efforts of coordination proposed by the AU that would take account of other regional and sub-regional organisations.

#### Ministries of Finance/Planning

The representative of the national planning and development authorities presented the following observations:

- This workshop allowed them to consult different mandates and discover the need to find more synergies between them;
- There is a need to integrate all these different mandates resulting from treaties ratified by African countries in various medium and long-term projects designed in national plans and/or national development programmes or regional development programmes;
- It is paramount that they perform well their arbitrator role between the various mandates to avoid internal conflicts in the implementation process and ensure its monitoring on the medium and long term.

#### Plenary Discussion

In the plenary discussion which concluded this session of the workshop at the AUC, participants reiterated the important role the AU has to play to support its Members States. They all agreed that it was in the AU's mandate to provide support for the preparatory work prior to taking part in international negotiations and for coordination between the Member States for the mutually supportive implementation of the two treaties. Some participants highlighted that the AU did not have enough funding for the various suggested activities but that they were willing to lobby for the relevance of these processes in their countries so that each Member State commits adequate resources to their implementation. They added that it was also the role of each Member State to raise funds to support the work of the Commission. They suggested that each country could set aside a part of its GEF allocation and make it available to the AUC to finance activities related the

coordinated implementation of the Nagoya Protocol and its mutually supportive implementation with the ITPGRFA. They were of the opinion that if Member States did not get involved, this work will be difficult to fund through other ways. Representatives of the GEF operational focal points stated that GEF resources were given exclusively to countries. They suggested that if the AU aimed to lead such a project, it must make the request for funds to the GEF. As they had indicated in their message to the AUC, a GEF fund exists for that purpose.

### **Common Reflection on the Outcomes of the Meeting at the African Union**

Back at the ILRI, participants were asked to share their impressions from their meeting with the AU Permanent Representatives Committee. These were as follows:

- Funding opportunities exist within the GEF to support activities to advance the mutually supportive implementation of both conventions. Member States must also strategically engage with the AU/AUC to mobilise resources and lobby to find possible ways to raise funds for additional work on these issues.
- The AU/AUC is committed to support its Member States and enhance the coordination and cooperation between them to address the interface between the two instruments, including activities related to international negotiations. Nevertheless, there is currently a lack of coordinated action to address the mutually supportive implementation of the Nagoya Protocol and the ITPGRFA.
- The AU/AUC must be more involved in matters related to the implementation of the International Treaty.
- There is a lack of awareness on ABS issues at the political level.
- The AU/AUC could play a bigger role in preparing officials prior to international meetings.
- The importance to take into account the SDGs as well as the vision and plan of action of Agenda 2063.
- Agriculture, food security, farmers' rights, traditional knowledge and research on genetic resources are priorities when it comes to advancing the efforts to fight climate change.
- One of the initial tasks of the different experts/mandates is to convince their governments, policy makers/decision-makers of the importance of the national implementation of both treaties.
- The lack of coordination and synergy between the Departments of HRST and REA must be addressed.
- Conflict areas and their impacts on biodiversity must be addressed.
- Despite all the above identified issues, there is a lack of clarity about future actions to be planned at national and AU level.

## **5. Way Forward**

### **Next Steps**

Both the ABS Initiative and Bioversity International informed the participants that their collaboration will continue to address the Nagoya Protocol and the International Treaty nexus. The immediate steps will be to publish the report of this workshop, blog posts and develop fact sheets, put ppt presentations, pictures from the workshop on the internet, edit and release the video that had been filmed during the meeting, newspaper reports about the meeting. Both organisations encouraged participants to provide their feedback on the 'decision-making tool' when it will be circulated for comments. The co-organisers will support each other in the follow-up work and aim to raise funds together to plan some additional activities. Both organisations are currently involved in a pilot project on mutually supportive implementation in Madagascar and Benin, funded

by the UK Department for International development (DFID) under the Darwin Initiative. Publications on the various activities undertaken will be made available in the coming year.

The ABS Initiative informed participants that it will continue focusing its support on national implementation of the Nagoya Protocol, while keeping in mind the linkages to the ITPGRFA and other instruments and processes.<sup>31</sup> It will make sure to integrate the lessons learnt in this workshop in its work. Policy briefs will also be published to help the various mandates to articulate their message to their government. The Initiative will continue providing its support to the AUC Department of HRST and look at different possibilities to raise funds.

The Department of HRST at the AU reported that the AUC was entering a critical time as it was now moving towards the implementation phase of the decisions taken at the last AU Assembly in June 2015. The aim is to synergise the various activities between the different sectors, departments and regional bureaux to evaluate how resources can best be used to support Member States. The Department will take up the decision of AMCEN for the AUC to work with UNEP to see how to support the implementation of the AU Guidelines with joint activities on ABS related matters. The Department will also keep engaged with Bioversity International regarding the work on the decision-making tool so that it becomes a useful tool that complements the AU Guidelines. Finally, the Department will work with the GEF for mobilising funds to further engage its Member States on development projects and prepare the 13<sup>th</sup> Conference of the Parties, serving as the second Meeting of the Parties to the Nagoya Protocol (COP MOP 2) with colleagues from other department levels.

The SCBD hoped to be able to continue and strengthen its collaboration with the Secretariat of the International Treaty, Bioversity International and the ABS Initiative and would like to work with the AUC on these matters on an on-going basis. Indeed, the SCBD was very pleased to see the development and adoption of the AU Strategic and Practical Guidelines by the AU Assembly as these are excellent documents that address the Nagoya Protocol from the African perspective in a clear and comprehensive way. They will undoubtedly play an important role in assisting countries to implement their obligations under the Protocol and in supporting its harmonious implementation with the International Treaty. The SCBD also proposed supporting the ABS Initiative and Bioversity International regarding the publishing of fact sheets based on this workshop in order to spread the word more broadly. Finally, the Secretariat informed the participants that it is also exploring the possibility to organise some similar workshops in other regions and raising funds for this.

The Secretariat of the ITPGRFA commended the process of this workshop on the various aspects related to the implementation of the International Treaty and the interface with the CBD and the Nagoya Protocol. The Secretariat has been given the mandate to continue collaborating with the ABS Initiative and Bioversity International. This is a starting point and the Secretariat will explore how it can follow-up on this workshop and check what progress has been done to keep the momentum going and strengthen all these relationships.

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<sup>31</sup> Mainly in Algeria, Benin, Kenya, Madagascar, Morocco, Namibia, South Africa, Uganda, as well as in three countries of the COMIFAC (tbc).

## Presentations

The full list of presentations made during the workshop is available [here](#) for download.

### Day 1

[The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefit Arising from their Utilization](#) – Kathryn Garforth, Secretariat of the Convention on Biological Diversity (SCBD).

[Overview of the International Treaty on Plant Genetic Resources for Food and Agriculture](#) – Kent Nnadozie, Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture (Secretariat of the ITPGRFA).

[The Nagoya Protocol, Poverty Alleviation and Climate Change: Conceptual Linkages](#) – Andreas Drews and Lena Fey, Access and Benefit-Sharing Capacity Development Initiative (ABS Initiative).

[Implementing the Multilateral System for Development: Highlighting Links to the Nagoya Protocol](#) – Michael Halewood, Bioversity International.

[Accessing and Using Genetic Diversity for Climate Change Adaptation](#) – Carlo Fadda & Gloria Otieno, Bioversity International.

[Resilient Seed Systems and Adaptation to Climate Change: Some Results from Participatory Climate and Crops Suitability Modelling in Eight African Countries](#) – Gloria Otieno, Bioversity International.

[ABS in Africa and the “Quadruple Win” Goal](#) – Pierre du Plessis, Access and Benefit-Sharing Capacity Development Initiative (ABS Initiative).

[Implementation of the Nagoya Protocol on ABS and the International Treaty on Plant Genetic Resources for Food and Agriculture: An African Union Perspective](#) – Mahlet Teshome, Department of Human Resources, Science and Technology (HRST), African Union Commission (AUC).

### Day 2

[Funding Opportunities for the Implementation of the Plant Treaty and the Nagoya Protocol in the Context of Broader National Policies](#) – Jaime Cavellier, Global Environment Facility (GEF).

[Feedback on Survey](#) – Michael Halewood, Bioversity International.

### Day 4

[The African Union Guidelines for the Coordinated Implementation of the Nagoya Protocol on ABS](#) – Mahlet Teshome, Department of Human Resources, Science and Technology (HRST), African Union Commission (AUC).

[Capacity Building Project on Multilateral Environmental Agreements Project](#) – Livingstone Sindayigaya, Department of Rural Economy and Agriculture (REA), African Union Commission (AUC).

## Further Reading

Michael Halewood, Elsa Andrieux, Léontine Crisson, Jean Rwihaniza Gapusi, John Wasswa Mulumba, Edmond Kouablan Koffi, Tashi Yangzome Dorji, Madan Raj Bhatta and Didier Balma *'Implementing 'Mutually Supportive' Access and Benefit Sharing Mechanisms Under the Plant Treaty, Convention on Biological Diversity, and Nagoya Protocol'*, 9/1 Law, Environment and Development Journal (2013), p. 68, available at <http://www.lead-journal.org/content/13068.pdf>

Jorge Cabrera Medaglia, Morten Walløe Tvedt, Frederic Perron-Welch, Ane Jørem and Freedom-Kai Phillips *'The Interface between the Nagoya Protocol on ABS and the ITPGRFA at the International Level: Potential Issues for Consideration in Supporting Mutually Supportive Implementation at the National Level'* (2013) Fridtjof Nansen Institute, Lysaker Norway, available at <http://www.fni.no/pdf/FNI-R0113.pdf>

Michael Halewood *'Mutually Supportive Implementation of the Plant Treaty and the Nagoya Protocol: A Primer for National Focal Points and other Stakeholders'* (2013) available online at <http://www.biodiversityinternational.org/e-library/publications/detail/mutually-supportive-implementation-of-the-plant-treaty-and-the-nagoya-protocol/>

The Secretariat of the Convention on Biological Diversity *'The Nagoya Protocol on Access and Benefit-Sharing Factsheet'* available at <https://www.cbd.int/abs/doc/protocol/factsheets/nagoya-en.pdf>

African Union Commission *'African Union Practical Guidelines for the Coordinated Implementation of the Nagoya Protocol in Africa'* (2015) available at [https://www.biodiversityinternational.org/fileadmin/user\\_upload/campaigns/Treaty\\_and\\_Nagoya\\_Workshop\\_2015/AU\\_Practical\\_Guidelines\\_on\\_ABS-English.pdf](https://www.biodiversityinternational.org/fileadmin/user_upload/campaigns/Treaty_and_Nagoya_Workshop_2015/AU_Practical_Guidelines_on_ABS-English.pdf)

African Union Commission *'The African Union Strategic Guidelines for the Coordinated Implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilisation'* as amended by the 15<sup>th</sup> Session of the AMCEN in Cairo, Egypt on 3<sup>rd</sup> March 2015 (2015) available at [http://www.abs-initiative.info/fileadmin/media/Knowledge\\_Center/Pulications/African\\_Union\\_Guidelines/AU\\_Strategic\\_Guidelines\\_On\\_ABS\\_-\\_20150215.pdf](http://www.abs-initiative.info/fileadmin/media/Knowledge_Center/Pulications/African_Union_Guidelines/AU_Strategic_Guidelines_On_ABS_-_20150215.pdf)

## Annotated Agenda

Monday 16 <sup>th</sup> November 2015: Introduction and Updates on the International Level	
08.30	Registration
09.00	<p><b>Opening and Introduction</b>  <b>Welcome Addresses by:</b>  <i>Siboniso Moyo, ILRI</i>  <i>Michael Halewood, Bioversity International</i>  <i>Andreas Drews, ABS Initiative</i>  <i>Mahlet Teshome, AUC</i></p> <p><b>Getting to Know One Another</b>  <b>Facilitators:</b> <i>Kathrin Heidbrink &amp; Hugues Quenum</i></p>
10.30	Coffee / tea
11.00	<p><b>Introduction to the Overall Guiding Framework</b></p> <ul style="list-style-type: none"> <li>▪ CBD – <i>Kathryn Garforth, SCBD</i></li> <li>▪ FAO – <i>Kent Nnadozie, ITPGRFA Secretariat</i></li> <li>▪ GEF – <i>Jaime Cavelier, GEF Secretariat</i></li> </ul>
12.30	Lunch
14.00	<p><b>ABS, Climate Change and Poverty Alleviation: Conceptual Linkages</b></p> <ul style="list-style-type: none"> <li>▪ Nagoya Protocol – <i>Andreas Drews, ABS Initiative</i></li> <li>▪ ITPGRFA – <i>Michael Halewood, Bioversity International</i></li> <li>▪ Accessing and Using Genetic Diversity for Climate Change Adaptation – <i>Gloria Otieno &amp; Carlo Fadda, Bioversity International</i></li> </ul>
15.30	Coffee / tea
16.00	<p><b>ABS, Climate Change and Poverty Alleviation: Conceptual Linkages (Cont.)</b></p> <ul style="list-style-type: none"> <li>▪ ABS in Africa and the “Quadruple Win Goal” – <i>Pierre du Plessis, ABS Initiative</i></li> </ul> <p><b>ABS: African and International Approaches</b></p> <ul style="list-style-type: none"> <li>▪ AU African Strategic Guidelines for the Coordinated Implementation of the Nagoya Protocol, and AU Activities regarding the mutually supportive implementation of the ITPGRFA/MLS and the Nagoya Protocol – <i>Mahlet Teshome, AUC</i></li> </ul>
17.30	End of Day

Tuesday 17 <sup>th</sup> November 2015: Stocktaking and Updates at Country Level	
09.00	<p><b>Introduction to the Day</b>  <i>Facilitators</i></p>
9.15	<p><b>Feedback on Survey Results on National Planning Processes</b>  <i>Michael Halewood, Bioversity International</i>  <b>Implications for National Planning:</b> Comments from the floor</p>
10.00	<p><b>Introduction to Group Work</b>  <i>Facilitators</i></p>
10.30	Coffee / tea
11.00	<b>Stocktaking in Country Teams</b>
12.30	Lunch
14.00	<b>Stocktaking in Country Teams (Cont.)</b>

<b>15.30</b>	Coffee / tea
<b>16.00</b>	<b>Stocktaking in Country Teams : Reflections and Reporting Back</b>
<b>17.30</b>	End of Day

<b>Wednesday 18<sup>th</sup> November 2015: Implications at Country Level</b>	
<b>9.00</b>	<b>Stocktaking in Expert Teams: Overall Implications</b>
<b>11.00</b>	Coffee / tea
<b>11.30</b>	<b>Country Teams: Reflection and Approaches for Coherent Planning</b>
<b>12.30</b>	Lunch
<b>14.00</b>	<b>Country Teams: Reflection and Approached for Coherent Planning (Cont.)</b>
<b>14.30</b>	<b>Sharing of Results</b>
<b>15.30</b>	Coffee / tea
<b>16.00</b>	<b>Introduction to the Visit to the African Union Commission</b> <i>Mahlet Teshome</i>
<b>18.00</b>	End of Day

<b>Thursday 19<sup>th</sup> November 2015: Visiting the African Union Commission</b>	
<b>7.30</b>	<b>Transfer to the African Union Commission</b>
<b>9.00</b>	<b>Introduction for African Union Representatives</b>
<b>10.30</b>	Coffee / tea
<b>11.00</b>	<b>Discussion with African Union Representatives</b>
<b>12.30</b>	Lunch with Permanent Representatives to the African Union from Participating Countries
<b>14.00</b>	<b>Return to the International Livestock Research Institute</b>
<b>15.30</b>	Coffee / Tea
<b>16.00</b>	<b>African Union Meeting Outcomes</b>
<b>18.00</b>	End of Day

<b>Friday 20<sup>th</sup> November 2015: Way Forward</b>	
<b>9.00</b>	<b>Developing Country Roadmaps</b>
<b>10.30</b>	Coffee / tea
<b>11.00</b>	<b>Country Roadmaps: Sharing and Feedback</b>
<b>12.30</b>	Lunch
<b>14.00</b>	<b>Wrap-up and Next Steps</b> <b>Closing</b>
<b>15.30</b>	End of Workshop

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## Annex 1: Survey

### Embedding Mutually Supportive Implementation of the Plant Treaty and the Nagoya Protocol in the Context of Broader National Policy Goals

WELCOME!

Dear Respondent,

Like all other participants in the workshop 'Embedding mutually supportive implementation of the Plant Treaty and the Nagoya Protocol in the context of broader national policy goals', we are asking you to fill in this survey.

This survey will help to provide an informal baseline concerning the state of integration of the Nagoya Protocol and the Plant Treaty in national planning documents, and the connections that may already exist between key agencies. The survey will also help the organisers develop parts of the workshop program.

A general overview of the survey results will be provided during the workshop.

Your responses will be treated confidentially. No individual's name and no country's name will be associated with any responses in our report back to the meeting.

Thank you for participating in our survey. Your feedback is important.

Sincerely,

Michael Halewood, Bioversity International, and Andreas Drews, ABS Capacity Development Initiative

#### Survey questions

1. Contact information
  - a. Name
  - b. Country
  
2. Title/responsibility. Please, check one of the following.

A	CBD-ABS/NP National Focal Point (or person attending the meeting for this National Focal Point)
B	ITPGRFA National Focal Point (or person attending the meeting for this National Focal Point)
C	GEF National Focal Point (or person attending the meeting for this National Focal Point)
D	Representatives of ministry of finance and or planning
E	Representative of government office dealing with agriculture and climate change adaptation

3. Over the last three years, as part of my work duties, I (and/or my predecessor in the same position) have met with the...

CBD-ABS/NP National Focal Point	Frequently Occasionally Rarely One time Not at all N/A: I am this person
ITPGRFA National Focal Point	Frequently

	Occasionally Rarely One time Not at all N/A: I am this person
GEF National Focal Point	Frequently Occasionally Rarely One time Not at all N/A: I am this person
Representatives of ministry of finance/planning	Frequently Occasionally Rarely One time Not at all N/A: I am this person
Representative of government office dealing with agriculture and climate change adaptation	Frequently Occasionally Rarely One time Not at all N/A: I am this person

4. You met with the following people one or more times (as per question 3 above). Please briefly describe the purpose of those meetings.

5. I, and/or my predecessor in this position, have been involved developing the...

National Development Strategy	Frequently Occasionally Rarely Not at all Not applicable as this does not exist in country
Medium Term Expenditure Framework	Frequently Occasionally Rarely Not at all Not applicable as this does not exist in country
National Biodiversity Strategy and Action Plan	Frequently Occasionally Rarely Not at all Not applicable as this does not exist in country
National Agricultural Development Plan	Frequently Occasionally Rarely Not at all

	Not applicable as this does not exist in country
National Plan for Climate Change Adaptation	Frequently Occasionally Rarely Not at all Not applicable as this does not exist in country
National Plan for Rural Development	Frequently Occasionally Rarely Not at all Not applicable as this does not exist in country
National strategy or plan for policy for advancing the economic development and rights of indigenous peoples or local communities	Frequently Occasionally Rarely Not at all Not applicable as this does not exist in country

6. You had some level of involvement in developing the following national strategies, plans or policies (as per question 5). Please briefly describe how you were involved in their development.
7. Have you been involved in developing any other national strategies, plans or policies? If yes, please list them below and briefly describe how you were involved in their development.
8. In the past 5 years, have you (or your predecessor in your position) been involved in government to government negotiations for bilateral development cooperation? If yes, please describe your involvement.
9. In the past 5 years, have you received bilateral ODA (Overseas Development Assistance) support for your work? If yes, please describe the objectives of the ODA supported project(s).
10. Please indicate if the implementation of the Convention on Biological Diversity (with a particular reference to access and benefit sharing), Nagoya Protocol and/or the ITPGRFA are mentioned in any of the following national planning documents:

National Development Strategy	-ITPGRFA -CBD (with particular reference to access and benefit sharing) -Nagoya Protocol
Medium Term Expenditure Framework	-ITPGRFA -CBD (with particular reference to access and benefit sharing) -Nagoya Protocol
Annual Budget	-ITPGRFA -CBD (with particular reference to access and benefit sharing) -Nagoya Protocol
National Biodiversity Strategy and Action Plan	-ITPGRFA -CBD (with particular reference to access and benefit sharing)

	-Nagoya Protocol
National Agricultural Development Plan	-ITPGRFA -CBD (with particular reference to access and benefit sharing) -Nagoya Protocol
National Plan for Climate Change Adaptation	-ITPGRFA -CBD (with particular reference to access and benefit sharing) -Nagoya Protocol
National Plan for Rural Development	-ITPGRFA -CBD (with particular reference to access and benefit sharing) -Nagoya Protocol
National strategy or plan or policy for advancing the economic development and rights of indigenous people or local communities	-ITPGRFA -CBD (with particular reference to access and benefit sharing) -Nagoya Protocol
	-None of them are mentioned

11. Please indicate any other national plans or strategies that include/mention the implementation of the ITPGRFA, the Nagoya Protocol or the CBD (with particular reference to access and benefit sharing).

## Annex 2: Briefing Note for African Union Organs

### **BRIEFING NOTE FOR AU ORGANS**

**BRIEFING SESSION ON  
EMBEDDING MUTUALLY SUPPORTIVE IMPLEMENTATION  
OF  
THE INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE  
AND  
THE NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND BENEFIT SHARING ARISING FROM THEIR  
UTILIZATION  
  
IN THE CONTEXT OF  
BROADER NATIONAL POLICY GOALS**

**November 19<sup>th</sup> 2015**

**African Union Head Quarters, Addis Ababa, Ethiopia**

#### **Background on the Workshop**

1. The coming into force of the Nagoya Protocol (NP) on Access and Benefit-Sharing (ABS) in October 2014 initiated renewed efforts to develop and implement access and benefit sharing mechanisms at the national level. At the same time, many countries are also working to develop policies and processes to implement the multilateral system of ABS under the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA/Plant Treaty). Legislative, administrative or policy measures to implement both instruments need to be consistent and mutually supportive. So far, in a number of countries, implementation efforts have been challenged by uncertainties about how to address the interface between these systems and delayed national processes.
2. To address these challenges, the organisers of this workshop have brought together experts, stakeholders, and policy makers to consult on coordinated, mutually supportive implementation for eleven pilot countries in Africa namely: Benin, Burkina Faso, Côte d'Ivoire, Democratic Republic of the Congo, Ethiopia, Kenya, Madagascar, Malawi, Mali, Senegal and Uganda.

A national team comprising of key sectors affected by matters of ABS from each of the ten African countries will discuss issues of cross-fertilisation in national planning and policy making processes where ABS has potential to make important contributions, including climate change and poverty alleviation.

#### **Impact at the AU Level**

3. At the level of the African Union, it is to be recalled that the 16<sup>th</sup> ordinary session of the Assembly of Head of State and Government of the AU has passed a decision to include biodiversity among its priorities<sup>32</sup>. The

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<sup>32</sup> Doc. Assembly/AU/15 (XVI) Add.3, 2011

Assembly also called on Member States to become Parties to the Convention on Biological Diversity (CBD) and all its Protocols, one of which is the Nagoya Protocol on ABS. Reiterating its commitment to the Assembly's decision, the 15<sup>th</sup> session of the African Ministerial Conference on the Environment (AMCEN) in March 2015, considered and adopted the draft African Union Guidelines on ABS. Consequently the 25<sup>th</sup> ordinary session of the Assembly in June 2015 adopted the recommendations of the AMCEN with regards to the AU guidelines on ABS.

4. The AU Guidelines contains a 'Strategic Framework' that intends to give policy direction to Member States and 'Technical Guidelines' that elaborates step-by-step actions to be taken by the relevant players in ABS implementation in Africa. Mutually supportive implementation of the Nagoya Protocol and the Plant Treaty are given due emphasis in the AU Guidelines.

#### **Actions for further consideration**

5. *Taking into cognisance the need for regional integration and coordination at the level of the AU, it is paramount that Member States and sectors and departments within the AU involved in implementing the Plant Treaty and the Nagoya Protocol on ABS consider the following:*

- I. **Collaboration in the coordinated and harmonised implementation of the AU Guidelines on ABS**

The AU organs should work towards the creation of avenues where Member States cooperate, share information and coordinate their policies on ABS with a view to establishing transparent, fair, equitable and harmonised benefit-sharing standards. Information exchange may be facilitated through the AU Commission as the Secretariat through the establishment a database of relevant ABS information as well as sensitisation and consultation on such information amongst the Member States and African indigenous peoples and local communities.

- II. **Capacity Building and Preparedness for negotiations under the two international instruments**

The Commission will support the African Group of Negotiators on Biodiversity (support to the processes under the Convention on Biological Diversity and its Protocols; including the Nagoya Protocol on ABS) as per the decision of the relevant AU Policy Organs on the same<sup>33</sup>. Member States are encouraged to strengthen policy and legal frameworks regarding implementation of the Nagoya Protocol and the Plant Treaty thereby preparing national positions and providing feedback to the regional process towards framing strong African common positions.

- III. **Genetic Resources Valorisation and Mainstreaming into National Development Policies and Plans**

The valorisation of biodiversity and genetic resources as stipulated in the AU Guidelines on ABS as well as other relevant documents should be given due concern as it greatly contributes to the benefit sharing aspect of ABS. The AU Agenda 2063 amongst others envisages a continental biodiversity strategy and a framework on natural resource accounting. The AUC medium term plan (2014-2017), which is fully integrated into Agenda 2063, envisages:

- developing a continental strategy on biodiversity, including ABS;
- supporting Member States to improve management of biodiversity, including ABS;
- developing a continental framework on natural resource accounting; and
- strengthening capacity of national planners to integrate biodiversity, most notably natural resources accounting in national planning processes.

- IV. **Sustainability Mechanism: Mobilisation of Funds**

Coordination and mutually supportive implementation of the Nagoya Protocol and the Plant Treaty may only be impactful if it has a sustainability mechanism in place. This calls for a regular

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<sup>33</sup> Assembly/AU/dec.353(XVI) and AMCEN Decision 14/8

budget within the program areas of the Commission ideally supported by the Member States. The relevant AU Policy Organs should hence champion the cause of biodiversity conservation and matters of ABS and mutually supportive implementation of the Nagoya Protocol and the Plant Treaty at all relevant dialogues within the AU system.

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