



## **ESTABLISHMENT OF AN AFRICAN LEGAL NETWORK ON ACCESS AND BENEFIT-SHARING (ABS) IN MOROCCO AND PARTICIPATING FRENCH-SPEAKING AFRICAN COUNTRIES**

### **TERMS OF REFERENCE**

#### **Background**

The Bio-Bridge Initiative (BBI) request builds upon Morocco's UNDP project *Elaboration of a National Legal Framework on ABS for Genetic Resources and Traditional Knowledge for the Implementation of the Nagoya Protocol in Morocco* (aka *APA Nagoya Project*), implemented through GEF under the State Secretariat for Sustainable Development (SEDD in French, former Ministry of Environment of Morocco). Under this Project, a draft ABS bill has been developed and deposited at the Government Secretariat for review prior to proposal to Parliament.

The assistance requested under BBI is part of a larger, two-fold initiative that will span a five-month period and cover the following two items:

- 1) The establishment of an African ABS Legal Network for French-speaking countries, that would strongly complement ongoing capacity development activities on ABS in targeted countries by facilitating exchange of knowledge and experiences of highly qualified ABS legal experts from French-speaking African countries, through South-South cooperation, with the knowledge, skills and networks needed to provide targeted solutions to the implementation of the Nagoya Protocol in French-speaking African countries; and
- 2) The development of an ABS Legal Leadership Programme, a training course for qualified ABS legal experts from French-speaking African countries, in order to expand the pool of ABS legal expertise available to support national and regional capacity building programs in targeted countries. This component would build up on the IDLO-SCBD Nagoya Protocol capacity building program by offering an advanced level training to complement the general regional IDLO-SCBD course.

#### **Rationale**

Although many of the coalition countries potentially involved in this initiative have taken important steps in implementing the Nagoya Protocol, through its ratification, the designation of national competent authorities and the development of ABS laws, there is a recognized lack of ABS legal expertise globally to support the many capacity building activities in ABS projects planned in various countries and regions. Given the large number of stakeholders from different sectors such as providers of genetic resources, local communities, researchers and government administrators, enhancing a deeper understanding of ABS regulations and their legal implication both at the national and international level are paramount.

In Morocco's case, their latest NBSAP (2016-2020) underlines the need to provide such long-lasting capacity development impacts as part of a national objective operationalize the Nagoya Protocol and share such advances with neighboring countries as part of their South-South cooperation policy. Neighboring French-speaking African countries have voiced similar concerns.

The first phase of the larger initiative will focus on establishing the mission and structure of the Network, its mission and development plan, as well as the general content of the



advanced training programme, building upon prior IDLO-SCBD course and online training modules.

The BBI contribution will fund the participation of ABS legal experts from other French-speaking African countries to a workshop to be held in Morocco in May 2018, as part of a two-day consultation to finalize the structure and mission of the African ABS Legal Network. The coalition countries would be the following: Algeria, Benin, Cameroon, Comoros, Côte d'Ivoire, Democratic Republic of Congo, Rwanda, Madagascar, Morocco, and Niger. The project will aim to identify, select and invite a highly qualified ABS legal expert from all of the 10 countries to take part in the first consultative meeting of the African ABS Legal Network. Following the participation and contribution of these ABS legal experts, the project document for the missions and structure of the network, as well as the content of the ABS Legal Leadership Programme will be updated and presented during the IDLO-SCBD ABS workshop for West Africa, to be held in Senegal in September 2018.

In the future, the African ABS Legal Network will look to play a key role in facilitating international South-South cooperation on capacity building for national implementation on ABS, as well as, in the long term, serve as a key advisory role on legal ABS matters for African countries on regional and sub regional matters addressed during Meeting of Parties on the Nagoya Protocol.

Following the establishment of the network and the development of a project document for the ABS Legal Leadership Programme, a fundraising strategy will be put in place in order to seek additional funding for the development of the training materials, as well as the financing of future activities (meetings, workshops, etc.) for the African ABS Legal Network.

## **Objective**

The vision of the intervention is to foster cooperation among French-speaking African countries to promote the design and implementation of Access and Benefit-Sharing (ABS) legislative, administrative and policy measures. The intervention will be two-fold and will include: (i) the creation of an African Legal ABS Network involving experts from Morocco and nine coalition countries (namely Algeria, Benin, Cameroon, Comoros, Côte d'Ivoire, Democratic Republic of Congo, Rwanda, Madagascar, and Niger); and (ii) the development of an ABS Legal Leadership Programme (ToT high-level training on legal aspects of ABS) project document through a coordinated regional approach via the African ABS Legal Network.

This objective will be realized, in part, through catalytic support of the Bio-Bridge Initiative and only the activities specifically described in Clause 2 below are considered in scope for this Agreement. Specifically, the immediate Project objectives to which the small-scale funding contributes are as follows:

- 1) Establish an African Legal ABS Network through the identification and consultation with ABS legal experts from Morocco and 10 coalition countries to provide thorough consideration and input in the building of the Network's vision, mission and structure;
- 2) Further strengthen the capacity of Morocco and 10 coalition countries in advanced legal expertise on ABS to ensure that key stakeholders (legal communities, bar associations, judges, legal advisors to government, business, researchers and communities) have the opportunity early to input into the design of an effective legal regime for ABS activities;



- 3) Fill a gap in national ABS programs in terms of understanding of complicated legal issues, from participation in legal reform, negotiation of ABS contracts, enforcement of benefit-sharing agreements, and the international compliance regime;
- 4) Expand the pool of ABS legal expertise available to support national and regional awareness-raising and capacity-building activities within the implementation of the Nagoya Protocol and ABS projects in the region; and
- 5) Support the countries' South-South cooperation policies, in particular in the development of case studies detailing challenges and approaches taken by the participating countries in designing ABS measures.

### Expected Outputs and Outcomes

- 1) Expected Outputs:
  - (i) Establishment of an African ABS Legal Network (vision, mission, structure and strategic plan) for French-speaking African countries; and
  - (ii) Project proposal for a follow-up cooperation project for future activities for the African ABS Legal Network and the ABS Legal Leadership Programme.
- 2) Expected Outcomes:

The output specified above is expected to contribute to the following outcomes:

- (i) ABS legal experts in coalition countries capable of coordinating transfer knowledge and cooperation initiatives on national Nagoya Protocol implementation and application of the ABS legal framework at regional level;
- (ii) Strengthened peer-to-peer knowledge sharing amongst the Global Network on Biodiversity Law, especially amongst Francophone countries, under the leadership of coalition experts and institutions; and
- (iii) Advancement of ABS partnerships across the Africa and MENA region, under the leadership of Morocco, and in particular, fostering of a coordinated regional approach in the development of national-level ABS training projects.

### Main Activities to Deliver the Outcomes

The activities to be carried out with the support of this Small Scale Funding Agreement are the following:

- 1) *Activity 1*: Organization of a two-day workshop in Morocco involving ABS legal experts hailing from Morocco and the other 10 target countries mentioned above, as well as representatives from UNDP and IDLO. This workshop will serve to finalize the structure and launch of the African ABS Legal Network;
- 2) *Activity 2*: Develop a project proposal for a follow-up cooperation project for future activities (Strategic Plan) for the African ABS Legal Network and the ABS Legal Leadership Programme, to be submitted for funding from other sources.

### Schedule of Activities

- *March - April 2018*: Identification of ABS legal experts in coalition countries for participation to the Morocco ABS legal workshop;



- *April 2018*: Registration of ABS legal experts from coalition countries;
- *May 2018*: Two-day workshop in Morocco for constitution of the African ABS Legal Network (mission and structure); and
- *May 2018*: Finalization of project documents for the African ABS Legal Network.

### Implementation

This Project will fall under the program of the existing *APA Nagoya Project* and as such, will fall under the administration of the SEDD of Morocco, with coordinating support from UNDP Morocco.

- *Steering Committee*: The APA Nagoya project is managed through a Steering Committee, comprised of all key ABS stakeholders of Morocco, including the Ministry of Agriculture, the High Commissariat for Water and Forestry, the Ministry of Foreign Affairs, the Ministry of Internal Affairs, as well as other non-governmental stakeholders representing research and academic institutions and local communities. All members of the Steering Committee are also part of the National Committee of Biological Diversity of Morocco. The same Steering Committee will oversee its implementation of the ToT on ABS Legal Leadership Program.
- *Project Director*: Mr. Mohamed Nbou, APA Nagoya National Project Director and Director of the Department of Biological Diversity, Climate Change and Green Economy at the SEDD of Morocco.
- *Coordinating Agencies*: UNDP Morocco, with support from IDLO. UNDP Morocco will handle financing received from BBI in contribution to the project, in line with their administrative duties for the implementation of the APA Nagoya Project in Morocco. In the second, larger scale scenario, UNDP Global ABS program could also be involved in the general coordination through the participation of other French-speaking African countries forming the coalition.
- *Project Coordinator*: Mr. Ali Benryane, National Coordinator for the Implementation of the Nagoya Protocol in Morocco (*APA Nagoya Project*), UNDP Morocco.

### Technical and Scientific Cooperation

The Project will directly involve key stakeholders from 10 French-speaking African countries, namely Algeria, Benin, Cameroon, Comoros, Côte d'Ivoire, Democratic Republic of Congo, Rwanda, Madagascar, and Niger, under the leadership of Morocco.

### Reporting

- 1) *Tracking and reporting*: Mid-term progress and final output will be reported to BBI team. Participation to BBI meeting and presentation of output would be delivered upon request of BBI team.
- 2) *Measurable indicators*: The project will be monitored using agreed-upon indicators:
  - Agreement outlining the formation of an ABS partnership for French-speaking African countries, under the leadership of Morocco
  - Production of a document / proposal outlining the Network's vision and strategy;

Activities of the project will be monitored through UNDP Insurance Quality indicators (for



output results and impacts), IWP-ROAR (for results-oriented reporting), GEF PIR (GEF tracking tool for biodiversity projects), GEN (gender equality control checklists) and the National ABS Institutional Capacity Scorecard.