



## Central African Forests Commission

*A regional dimension for the conservation  
and sustainable management of forest ecosystems*

### **Strategy of the COMIFAC countries on access to biological/genetic resources and the fair and equitable sharing of benefits arising from their utilization**



## **POLICY SERIES N°4**



## MESSAGE OF THE ACTING CHAIR

His Excellency Emmanuel BIZOT Acting Chair of COMIFAC  
Minister of Water resources, Forests, Hunting and Fisheries of the Central African Republic



It is a recognised fact the COMIFAC region which harbours the Congo Basin forests, is the second largest tropical forest area after the Amazonian basin and home to rich and extraordinary biological diversity, associated with knowledge, innovations and traditional practices. This biological and cultural diversity holds incalculable potential for Central Africa's socio-economic development.

However, the gradual loss of biological resources hampers poverty reduction. Thus, the highest authorities of our different and respective States have embarked on the path of sustainable and concerted management of Central Africa's forest ecosystems.

This political commitment, evidenced by the adoption on 17 March 1999, by the Heads of States and Governments, of the Yaounde Declaration on the conservation and sustainable management of Central Africa's forest ecosystems was recognised by the international community through Resolution No. 54/214 of 1 February 2000 during the 54th session of the United Nations General Assembly.

This political will was demonstrated by the adoption on 05 February 2005, of the Treaty on the conservation and sustainable management of forest ecosystems in Central Africa which equally instituted the Central African Forests Commission (COMIFAC).

In order to operationalise the commitment of the Heads of State, the Ministers in charge of the management of forest ecosystems, with the support of development partners, developed the Convergence Plan whose orientations 1 and 4 define the sub-region's priorities with respect to biodiversity management. The aim among others is to ensure that the COMIFAC countries meet the obligations enshrined in the Convention on Biological Diversity.

In respect of the aforementioned convention, negotiations dating back to 1998 on the development of an International Regime on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits (ABS) arising from their utilization culminated in the adoption of a binding protocol on ABS in October 2010 in Nagoya (Japan). Considering the sub-region's wealth in terms of genetic resources, it was needful for the COMIFAC countries to start thinking about devising a sub-regional strategy for ABS.

Today, I am singularly pleased to announce that this reflection has resulted in the adoption by the Council of Ministers of COMIFAC, of the «Strategy of the COMIFAC countries on Access to Biological / Genetic Resources and the fair and equitable sharing of benefits arising from their utilization.»

This strategy is intended to guide each country of the COMIFAC region in developing and implementing a National Access and Benefit-Sharing Framework incorporating among others the protection of Traditional Knowledge, Innovation

and Practices (TKIP), Indigenous Peoples (IP) and Local Communities (LC) in accordance with the Convention on Biological Diversity.

I am therefore calling on all member countries of COMIFAC to optimise the use of this strategy so that by 2015, each of our countries will not only be equipped with a National Framework but also in order that our States may truly enjoy the benefits derived from the use of our biological / genetic resources with a view to reducing poverty.

In this connection, I strongly urge the Ministers in charge of the management of forest ecosystems and the environment to implement this strategy while engaging researchers, traditional practitioners, Civil Society Organisations (CSOs), indigenous peoples, development partners and the private sector at the national level.

I wish to reiterate my deep gratitude to the experts of the COMIFAC countries, civil society organisations and all development partners who contributed to the development of this strategy.

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## FOREWORD

By Raymond MBITIKON  
Executive Secretary of COMIFAC



The Convention on Biological Diversity, adopted in June 1992, reflects the international community's commitment to sustainable development. It has three objectives namely, the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising from the utilization of genetic resources.

Following the ratification of this Convention by 193 countries including all the countries of the COMIFAC region, it has been observed that commendable efforts are being made to implement its objectives, notably 1 and 2.

However, the third objective is not being adequately implemented, an issue which has sparked debate within the international community. This has been the backdrop for negotiations relating to the adoption of an international regime on Access to genetic resources and the fair and equitable Sharing of Benefits arising from their utilization (ABS).

Nonetheless, an international regime on its own cannot suffice to guide the implementation of all ABS objectives. It must be buttressed by adequate regional, sub-regional and national measures. To this end, it is important for each country to establish measures to promote ABS to better guide the management of biodiversity found within its territory, to prevent it from being used without their consent and to actually enjoy the benefits arising from its use.

Thus, with a view to bolstering the implementation of the CBD in Central Africa, operationalising the biodiversity components of the Convergence Plan and integrating ABS

aspects, COMIFAC established the “Central Africa Biodiversity Working Group, abbreviated (GTBAC)” in December 2006.

As COMIFAC’s backbone on issues of biodiversity, this group was mandated to formulate the sub-regional ABS strategy.

Thus, in the 2007 GTBAC roadmap, COMIFAC commissioned a study entitled «Access to biological resources and sharing of benefits arising from their use: regulatory and institutional provisions in the COMIFAC region and prospects» (COMIFAC, 2007). The findings of this study highlighted legal, institutional and technological gaps in the field of ABS. One of the study’s recommendations called for an ABS strategy to be developed in the sub-region.

Similarly, in the 2009 GTBAC roadmap, COMIFAC conducted a study on «the identification of elements that can provide a basis for developing the sub-regional strategy of the COMIFAC countries in terms of access to genetic resources and sharing of benefits arising from their use» (COMIFAC, 2009).

In the same vein, COMIFAC has mandated a group of experts to develop the said strategy based on the results of the above-mentioned study.

At present, the strategy has been submitted for validation by GTBAC and approval by the Council of Ministers of COMIFAC.

This strategy is expected to guide each country of the COMIFAC region in developing its National Access and Benefit Sharing (ABS) Plan which takes into account, inter alia, the protection of Traditional Knowledge, Innovation and Practices (TKIP) Indigenous Peoples (IP) and Local Communities (LC) in consideration of local realities and in line with the provisions of the Convention on Biological Diversity.

We wish to express our gratitude to the experts of the COMIFAC countries, civil society organisations and all development partners who contributed to the elaboration of this strategy.

COMIFAC remains available to assist countries in finalising this exercise, which may require adjustments to adapt to the changing international, regional, sub-regional, or even national context.

Finally, we call the community of development partners to assist countries in implementing this strategy at national level.

## ACRONYMS/ABBREVIATIONS

<b>ABS</b>	Access and Benefit Sharing
<b>WG ABS</b>	Ad Hoc Open-Ended Working Group on ABS
<b>CBD</b>	Convention on Biological Diversity
<b>CEAP</b>	Communication, Education and Awareness of the Public
<b>CHM</b>	Clearing House Mechanism
<b>CITES</b>	Convention on International Trade in Endangered species of Wild Fauna and flora
<b>COMIFAC</b>	Central African Forests Commission
<b>COP</b>	Conference of Parties
<b>CSO</b>	Civil Society Organisation
<b>FAO</b>	Food and Agriculture Organisation of the United Nations
<b>GETAPA-COMIFAC</b>	Group of Technical Experts of COMIFAC on ABS
<b>GGE-ABS</b>	Group of Government Experts on ABS
<b>GTBAC</b>	Central Africa Biodiversity Working Group
<b>IP</b>	Indigenous Peoples
<b>LC</b>	Local Communities
<b>MAT</b>	Mutually Agreed Terms
<b>NCA</b>	National Competent Authority
<b>NGO</b>	Non Governmental Organisation
<b>OAPI</b>	African Intellectual Property Organisation
<b>OAU</b>	Organisation of African Unity
<b>PIC</b>	Prior Informed Consent
<b>SCBD</b>	Secretariat of the Convention on Biological Diversity
<b>TKIP</b>	Traditional Knowledge, Innovation and Practices
<b>TRIPS</b>	Trade Related Aspects of Intellectual Property Rights (TRIPS)
<b>UNO</b>	United Nations Organisation
<b>WIPO</b>	World Intellectual Property Organisation
<b>WSSD</b>	World Summit for Sustainable Development
<b>WTO</b>	World Trade Organisation



## INTRODUCTION

The ecosystems of countries of the COMIFAC region shelter a unique biodiversity which carries invaluable potential for the sub-region's socio-economic development. Over 115 million people are reliant on this biological diversity. In fact, the Congo Basin forests, covering an estimated 200 million hectares and considered as the second largest expanse of tropical forest after the Amazonian basin, accommodate 10,000 higher plant species including 3,000 reputedly endemic species, 1,000 bird species, 900 butterfly species, 280 reptile species and 400 mammal species encompassing rare species facing extinction, including the great apes (Anonymous, 2007).

Recognising this tremendous potential, all the countries of the COMIFAC region have signed the Convention on Biological Diversity (CBD) which provides a comprehensive framework to gradually stem the loss of biological diversity. It is equally a legally binding international instrument that recognises the sovereignty of States over their natural resources and under which they have pledged to pursue three objectives:

- «the conservation of biological diversity;
- the sustainable use of its components;
- the fair and equitable sharing of benefits arising from the utilization of genetic resources, foremost by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by adequate funding.»

In a bid to implement the third objective of the Convention on Biological Diversity adopted in Rio (Brazil) in 1992, the international community has since 1998 launched out on a path of research and definition of appropriate mechanisms in this respect.

The issue of access to biological / genetic resources and sharing of benefits arising from their utilization (ABS) is both an asset and a challenge. An asset in the sense that it seeks to promote the long-term objectives of conservation, sustainable use and socio-economic development through incentives related to trade, the market and use of modern technologies. It constitutes a challenge since it aims to develop and agree on legal mechanisms, methods and policies intended to translate the concept of ABS into practical reality.

It is from this perspective that the COMIFAC countries are striving to implement legal, institutional and operational mechanisms to regulate access and fair and equitable sharing of benefits derived from the use of biological and genetic resources (ABS).

In light of the foregoing, there is a compelling need for the countries of the COMIFAC region to develop an ABS strategy. The latter is not an end in itself, but rather a guiding framework for the development of National ABS Frameworks of member countries of COMIFAC. It further appears as an instrument of poverty reduction and sustainable management of biodiversity.

# 1. CURRENT STATUS OF ACCESS TO BIOLOGICAL/GENETIC RESOURCES AND SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION

Since 1998, the international community has been working to create and implement an access and benefit sharing mechanism.

## 1.1 BIRTH AND UNDERSTANDING OF THE CONCEPT OF ABS

The concept of «ABS» was born with the advent of the CBD. Globally, it seeks to balance scientific and commercial interests, which are the sources of genetic resource development with a view to attaining the objectives of equity, of social justice for the benefit of those who preserve or are the originators of genetic resources and associated traditional knowledge. The primary aim is to regulate access and establish mandatory benefit-sharing with the countries providing the genetic resources used.

## 1.2 EVOLUTION AND STATUS OF THE ABS CONCEPT AT INTERNATIONAL LEVEL

The evolution and status of ABS at international level may be divided into three phases:

- the period preceding the adoption of the Bonn guidelines ;
- the adoption of the Bonn guidelines;
- the period of negotiation of an international ABS regime.

### 1.2.1 Period preceding the adoption of the Bonn guidelines (1998-2002)

Exchanges on ABS were initiated at the fourth Conference of the Parties (COP4) held in Bratislava in 1998. During this meeting, COP4 requested the Executive Secretary (SCBD) «to invite the Parties and competent organisations to provide information on ex situ collections» [...] and «write a synoptic paper on the implementation of measures aimed at promoting and advancing ABS arrangements, based on experimental data submitted by Parties, Governments and organisations.»

COP4 also decided to set up a Group of Government Experts on ABS (GGE / ABS), whose mandate was to provide definitions of basic ABS concepts so that everyone may have a common understanding of the ABS concept.

In 2000, COP5 which was held in Nairobi decided to replace the GGE / ABS with an Ad Hoc Open-ended Working Group on ABS (WG ABS) whose main task was to develop guidelines and other approaches to be submitted to COP6.

In October 2001, during its first meeting, the WG ABS, based on the elements presented in the report of the GGE / ABS, developed draft guidelines on ABS that identify the elements that would govern the responsibilities of users and providers of genetic resources. The project aims to assist Parties in implementing a comprehensive ABS strategy.

### **1.2.2 Adoption of Bonn guidelines (2002)**

The draft text of the Bonn Guidelines was adopted at COP6 held in The Hague in April 2002. The Bonn Guidelines are intended to assist Parties, States and other stakeholders in developing strategies for access to genetic resources and benefit-sharing. They are, more specifically, expected to assist them in developing legislative, administrative or policy measures on ABS. They also define the stages in the ABS process emphasising the user's obligation to obtain prior informed consent from providers.

### **1.2.3 Period of negotiation of an International ABS Regime (post 2002).**

Despite the adoption of the Bonn Guidelines, the Mega Biodiversity Countries expressed dissatisfaction with the pace of the negotiations and issued a declaration in 2002 at an international meeting: the Cancun Declaration.

The Cancun Declaration in this regard, is therefore regarded as the actual catalyst of ABS negotiations. Their request was formulated as follows: «[We] seek to create an international regime to effectively promote and safeguard the fair and equitable sharing of benefits arising from the use of biodiversity and its components [...]».

The issue of the development, adoption and implementation of an International ABS Regime was discussed during the proceedings of the World Summit on Sustainable Development (WSSD) held in Johannesburg in August-September

2002. The Summit in its resolution 2 recommended, inter alia, that States should «negotiate within the framework of the Convention on Biological Diversity, bearing in mind the Bonn Guidelines, an international regime to promote and safeguard ABS arising from the use of genetic resources» .

On the strength of this resolution, the WG ABS has held several meetings in order to develop an international regime.

The development of an International Regime also takes into account contributions from other international fora owing to the cultural, scientific and commercial values of biological and genetic resources. Without going into the details of processes underway in other fora, they include:

- The World Trade Organisation (WTO)
- Trade Related Aspects of Intellectual Property Rights (TRIPS) ;
- The Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore;
- The World Intellectual Property Organization (WIPO);
- And FAO as part of the implementation of the Multilateral System for Access and Benefit-sharing recommended by the International Treaty on Plant Genetic Resources for Food and Agriculture.

In light of this international context, the Organisation of African Unity adopted the African Model Law for «The Pro-

tection of the Rights of Local Communities, Farmers and Breeders, and for the regulation of access to biological resources.» Central Africa has equally undertaken some actions to integrate the concept of ABS in its sustainable ecosystem management policy.

### 1.3 THE ABS PROCESS IN THE COMIFAC REGION

Despite efforts made by the international community, the COMIFAC countries, similar to other developing countries, feel that they are not enjoying the share they deserve of benefits derived from the use of their biological / genetic resources for scientific and / or trade purposes.

In the roadmaps of the Central Africa Biodiversity Working Group (GTBAC) established in 2006 in Sao- Tomé & Principe, COMIFAC commissioned two studies on the issue of Access to biological / genetic resources and the Sharing of Benefits arising from their use.

The first study (COMIFAC, 2007) focused on the status of ABS-related regulatory and institutional provisions and prospects in the countries of the COMIFAC region. The study notes that each of the COMIFAC countries has environmental and forest laws, which cannot however be regarded as specific ABS instruments. It thus highlights a dearth of specific ABS regimes across all member countries of the COMIFAC region despite their rich biological/genetic resources. In conclusion, it recom-

mends the elaboration of a subregional strategy for ABS.

The second study (COMIFAC, 2009) pinpointed elements that could form the basis for developing a sub-regional strategy for the COMIFAC countries to address the issue of Access to biological and genetic resources and the sharing of benefits arising from their use.

This study enabled COMIFAC to establish a Technical Expert Group (TEG-COMIFAC) to develop a draft subregional ABS strategy.



## 2. DEFINITION OF KEY TERMS RELATING TO THE ABS PROCESS IN COUNTRIES OF THE COMIFAC REGION

For the purposes of this strategy, the concepts below have been consensually defined to be applied across the COMIFAC region.

**Biopiracy:** means any appropriation and exploitation for scientific research and/or commercial purposes that is not compliant with national legislation and regulations on biological, genetic resources, products and derivatives as well as associated knowledge, innovations and practices.

**Bioprospecting:** bio-prospecting refers to the collection, search for and use of biological and / or genetic materials to use the knowledge derived from them for scientific and / or commercial purposes. Bioprospecting involves the search for economically valuable and naturally occurring genetic and biochemical resources.

**Patent:** A patent is a monopoly granted to an inventor for a set period (usually 20 years) during which he may exploit the invention without direct competition. A patent is a legal instrument by which the inventor may prohibit any other party's use of the idea of the invention without the inventor's permission. Patents are specific to each country.

**National ABS frameworks:** The set of measures (strategy, legislation, legal framework, etc.) taken at national level for the implementation of the ABS process.

**Local Communities:** The term «local communities» here includes forest-dependent communities that are not legally recognised as indigenous peoples, traditional communities by national legislation.

**Mutually agreed terms:** This term generally means that the user and the provider of the resource must agree on the conditions governing its use and the conditions for sharing of benefits that may result from its use.

**Prior informed consent:** This concept is defined as the obligation to obtain permission from a Competent National Authority (CNA) of the providing country in order to gain access to a biological / genetic resource, products, derivatives or associated TKIP.

**Biological diversity:** The variability of living organisms of all origins including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes to which they belong; this includes diversity within species, between species as well as that of ecosystems.

**Indigenous Peoples:** The definition and nomenclature of indigenous peoples varies from one State to another, depending on their specific circumstances and contexts. However, a definition can be given based on characteristics that have been outlined by the UN. Thus, a people

should be considered as «Indigenous» if they meet the following criteria:

1. «Occupancy and use of a specific territory;
2. «The voluntary perpetuation of cultural distinctiveness, which may include aspects of language, social organisation, religious and spiritual values, mode of production, as well as laws and institutions;
- 3.»Self-identification and recognition by other groups as a distinct community;
4. «Experience of subjugation, marginalisation, expropriation, exclusion or discrimination.»”

**Biological resources:** Genetic resources, organisms or elements thereof, populations or any other biotic component of ecosystems of actual or potential use or value to humanity.

**Genetic resources:** genetic material of actual or potential value, with the

understanding that «genetic material» refers to any material of plant, animal, microbial or other origin containing functional units of heredity.

**Traditional knowledge:** Under the CBD, this term is used to refer to traditional knowledge, innovations and practices of indigenous and local communities related to the conservation and sustainable use of biological diversity.

**Sui generis system:** In relation to a legal access and benefit sharing (ABS) instrument, this term refers to a special form of protection of genetic, biological resources and traditional knowledge as well as the customary rights, modes of use and management associated with these resources by the Indigenous Peoples and local communities within a country.

**However, other definitions may exist depending on the national context.**



### 3. PRESENTATION OF THE STRATEGIC FRAMEWORK

The strategic components include a vision and objectives that define the strategic orientations.

#### 3.1 VISION OF THE STRATEGY

By 2015, the COMIFAC region shall have a policy on Access and Fair and equitable sharing of the benefits (ABS) arising from the sustainable use of biological and genetic resources with a view to facilitating the development and implementation of harmonised national ABS frameworks to help improve people's incomes, create jobs, develop businesses and generate increased tax revenues for the States.

#### 3.2 PURPOSE OF THE STRATEGY

The strategy aims to ensure the conservation and sustainable use of biological diversity as well as promote the fair and equitable sharing of benefits derived from the utilisation of biological and genetic resources of countries of the COMIFAC region.

#### 3.3 OBJECTIVES

##### 3.3.1 Overall objective of the strategy

To guide each country of the COMIFAC region in developing and implementing a national framework for Access and Benefit Sharing (ABS) through a consultative framework involving all stakeholders (research institutions, government agencies, the private sector, civil society, Indigenous Peoples and

Local Communities ...), in accordance with the provisions of the Convention on Biological Diversity, including the principles of Mutually Agreed Terms (MAT), Prior Informed Consent (PIC) and taking into account the protection of Traditional Knowledge, Innovations and Practices (TKIP) as well as the gender perspective.

##### 3.3.2 Specific objectives of the strategy

- To ease the implementation of the ABS strategy in the COMIFAC region;
- To enable countries of the COMIFAC region to develop legal access and benefit-sharing frameworks, define administrative procedures and mechanisms for stakeholder participation;
- To contribute to ABS-related capacity building of stakeholders;
- To facilitate mainstreaming of the use of biological/genetic resources into national development policies;
- To provide tools for monitoring-evaluation of the implementation of national ABS frameworks in the COMIFAC region.

#### 3.4 STRATEGIC ORIENTATIONS

- Strengthening/ Building capacities;
- Elaborating Administrative Procedures;
- Developing Legal frameworks ;
- Developing stakeholder participation mechanisms;
- Promoting and developing biological/genetic resources;
- Monitoring-evaluation tools.

### 3.5 Consolidated logical framework matrix

<b>VISION</b>	By 2015, the COMIFAC region shall have a policy on Access and Fair and equitable sharing of the benefits (ABS) arising from the sustainable use of biological and genetic resources with a view to facilitating the development and implementation of harmonised national ABS frameworks to help improve people's incomes, create jobs, develop business and generate increased tax revenues for the States.					
<b>AIM</b>	The strategy aims to ensure the conservation and sustainable use of biological diversity as well as to promote the fair and equitable sharing of benefits derived from the utilisation of biological and genetic resources of countries of the COMIFAC region.					
<b>OVERALL OBJECTIVE</b>	To guide each country of the COMIFAC region in developing and implementing a national framework for Access and Benefit Sharing (ABS) through a consultative framework involving all stakeholders (research institutions, government agencies, the private sector, civil society, Indigenous Peoples and Local Communities ...), in accordance with the provisions of the Convention on Biological Diversity, including the principles of Mutually Agreed Terms (MAT), Prior Informed Consent (PIC) and taking into account the protection of Traditional Knowledge, Innovations and Practices (TKIP) as well as the gender perspective.					
<b>ORIENTATIONS</b>	<b>Strategic orientation 1</b>	<b>Strategic orientation 2</b>	<b>Strategic orientation 3</b>	<b>Strategic orientation 4</b>	<b>Strategic orientation 5</b>	<b>Strategic orientation 6</b>
<b>Title</b>	Capacity strengthening /building	Developing administrative procedures	Developing a legal framework	Establishing stakeholder participation mechanisms	Promoting and developing biological/genetic resources	Monitoring-evaluation tools
<b>Objective</b>	To ease and support capacity strengthening/building of the public, of traditional practitioners' associations, researchers, institutions and indigenous and local communities for the implementation of the Convention on biological diversity relating to access and benefit-sharing	To provide guidelines for developing clear and transparent administrative procedures on ABS at national level	To guide countries in developing legislation and regulations	To provide countries with elements that may serve as a basis for establishing mechanisms likely to guarantee effective stakeholder participation	To foster the integration of the use of biological/genetic resources in national development policies	To provide tools for monitoring-evaluation of the implementation of national ABS frameworks in the COMIFAC region
<b>Indicators</b>	Number of people, members of traditional practitioners' associations, members of indigenous and local communities and researchers trained Number of countries with an ABS regime Number of Competent National Authorities that have been established and are functional Number of awareness workshops and campaigns conducted	Number of ABS-related administrative procedures developed	Number of legislative texts and regulations adopted and enacted at national level	Number of mechanisms established % representativeness by group of actors	Number of biological/genetic resources identified, number of processing units created and operational Number of gene banks established, number of fairs organised	Number of tools developed and made available Number of annual reviews



## 4. PRESENTATION OF OPERATIONAL FRAMEWORK

The operational framework focuses on the identification and planning of activities according to strategic orientation at the subregional level. These activities are meant to guide interventions in COMIFAC countries aimed at developing legal ABS frameworks.

### 4.1 SUBREGIONAL OPERATIONAL MATRIX

#### Orientation 1: Capacity strengthening/building

ACTIVITIES	IMPLEMENTATION PERIOD																			
	2011				2012				2013				2014				2015			
	T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4
<b>Institutional capacities.</b>																				
Establish and operationalise the subregional CHM																				
Strengthen the functioning of national CHMs																				
Integrate ABS in training modules of specialised institutions																				
Create and strengthen national advisory committees in matters relating to ABS																				
<b>Systemic capacities</b>																				
Prepare and circulate a glossary of ABS-related terms																				
Develop training modules with a specific focus on ABS																				
Take/strengthen measures to regulate bio prospecting																				
Develop communication and public awareness tools																				
Develop a roster of ABS experts																				



Prepare a manual defining the steps in the ABS process	A manual on the ABS process prepared								
Define each actor's roles, duties and responsibilities	Roles, duties and responsibilities of each actor identified								

### Orientation III: Developing the legal framework

ACTIVITIES	RESULTS	IMPLEMENTATION PERIOD							
		2011				2012			
		T1	T2	T3	T4	T1	T2	T3	T4
Formulate subregional guidelines for drafting national ABS legislation	Subregional guidelines for drafting national ABS legislation drafted and circulated								
Develop legal measures to foster compliance with PIC and MAT	Model legal measures to foster compliance with PIC and MAT developed and circulated								
Formulate terms and conditions of access and benefit-sharing	Model terms and conditions of access and benefit-sharing formulated and circulated								
Establish dispute-settlement mechanisms	Dispute-settlement mechanisms formulated								
Develop national ABS legislation	National ABS legislation developed								

### Orientation IV: Establishing stakeholder participation mechanisms.

ACTIVITIES	RESULTS	IMPLEMENTATION PERIOD							
		2011				2012			
		T1	T2	T3	T4	T1	T2	T3	T4
Develop a manual on stakeholder consultation and participation (private sector, educational institutions, institutions and organisations relevant to indigenous peoples and local communities, and NGOs)	Manual on stakeholder consultation and participation developed and disseminated								
Formulate guidelines on ensuring the participation at national level of indigenous peoples and local communities at all levels of decision-making	Guidelines on ensuring participation of LIC formulated and disseminated								

## Orientation V Promoting and developing biological/genetic resources

ACTIVITIES	IMPLEMENTATION PERIOD																			
	2011				2012				2013				2014				2015			
	T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4
<b>Knowledge of resources and traditional know-how</b>																				
Conduct an inventory of biological/genetic resources																				
Conduct an inventory of traditional knowledge, innovations and practices																				
Conduct studies (analysis) on physico-chemical properties of biological and genetic resources																				
<b>Development of biological and genetic resources</b>																				
Identify resource marketing sectors and channels																				
Foster the development of resource processing companies																				
Promote domestication of high-value species																				
Promote gene banks																				
<b>Promoting biological and genetic resources</b>																				
Organise trade events																				
Develop partnerships																				
Dissemination of research findings through modern and traditional communication tools																				

## Orientation VI Monitoring-evaluation tools

ACTIVITIES	IMPLEMENTATION PERIOD																			
	2011				2012				2013				2014				2015			
	T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4	T1	T2	T3	T4
Develop and validate a procedure manual on monitoring and evaluation of the implementation strategy																				
Develop and validate a procedure manual on monitoring and evaluation of the implementation of ABS frameworks																				
Ensure monitoring-evaluation of the implementation of ABS frameworks																				



## 5. TERMS FOR IMPLEMENTATION OF THE STRATEGY

The principle underpinning the implementation of the strategy is mainly built on the concept of efficiency. COMIFAC member countries should seek through efficiency, to achieve the objectives of the Strategy.

### **a) Duties of COMIFAC (Central African Forests Commission)**

COMIFAC shall be responsible for the orientation, harmonisation and monitoring of forest and environmental policies in Central Africa. In this capacity, it shall supervise and coordinate actions and initiatives on forests and the environment in the sub-region.

Thus, as part of COMIFAC's contribution to ABS policy formulation in the sub-region, COMIFAC has worked through the GTBAC, to develop the «Strategy of the COMIFAC countries on access to biological / genetic resources and the fair and equitable sharing of benefits arising from their utilization.»

Following the adoption of the Strategy by the Council of Ministers of COMIFAC, the Executive Secretariat will shoulder the responsibility of developing and implementing a mechanism for monitoring and evaluating the implementation of the strategy based on sub-regional indicators. COMIFAC will work to develop guidelines to assist countries in the implementation of the Strategy.

It shall also seek to galvanise funding from partners to support activities related to the implementation of the strategy at the sub-regional level. COMIFAC may coordinate funding requests from member countries. As such, it may therefore be in charge of powering projects with a subregional reach.

It shall equally inform various States of available funding opportunities.

COMIFAC shall further assist countries in the near term, in developing a market for genetic resources in order to develop them with assistance from ECCAS. This would require the creation at both national and sub-regional level, of centres of excellence in research and development. It would be needful to perform some prior actions, including an inventory of genetic resources, establishing and operating ABS CHMs at country level.

### **b) Duties of countries**

The countries shall be responsible for implementing this strategy. Each country shall be required to mobilise adequate financial and human resources to that effect.

The CBD and / or ABS Focal Point shall be responsible for popularising the strategy through a broad consultation process which should culminate in implementation planning at national level. Thus, the Focal Points will be expected through a participatory process with the relevant stakeholders (research institutions, government institutions, the private sector, civil society, Indige-

nous Peoples and Local Communities ...), to contextualise activities, identify tasks and determine the cost of implementing the strategy in their respective countries.

Within this contextualisation process, it would be helpful to develop indicators and a precise timetable (quarterly and monthly) for the implementation of planned activities.

### **c) Launching of the strategy**

At sub-regional level, the strategy should be launched through information and training workshop involving representatives of key stakeholders of the COMIFAC region.

At national level, the strategy should be popularised first by organising a high profile launching workshop. It shall bring together Ministers in charge of departments involved in the ABS process including the Ministers of Environment, Water and Forests, Scientific Research, Industry and Commerce, Justice, Defence, Human Rights, Agriculture and Fisheries, Health, Tourism, Economic Planning ... This would be followed by a second workshop intended for experts taken from among all the stakeholders in the ABS process.

### **d) Technical orientations**

Technically speaking, the implementation of the capacity building orientation should fall in line with the ABS capacity building plan adopted by COP 6 of the CBD.

With respect to formulating administrative procedures, it appears needful

to draw on the Bonn Guidelines to define the functions of the Focal Point and those of the NCA (National Competent Authority), and then determine the administrative mechanism that will form the basis for this orientation. In this connection, it would be important to designate the authorities empowered to grant PIC and MAT.

It is recognised that stakeholder participation is essential for the development and implementation of appropriate access and benefit sharing arrangements. Considering the diversity of actors, it would be worthwhile to identify the steps in which each could intervene because they are not all concerned with the different stages of ABS.

Moreover, it should be noted that the steps in the process of obtaining access to genetic resources and sharing of benefits may encompass several activities including prior access to genetic resources, those relating to research, to the development of genetic resources as well as marketing and other uses. It will therefore be necessary to identify and describe all steps in the process not omitting PIC and MAT. The Cartagena Protocol on Biosafety and the Bonn Guidelines could serve as the foundation.

The most important project in the ABS process is the formulation of national legislation.

Taking into account the CBD, the Algiers Convention and the African Model Law, the aim will be to develop a law on biological resources while highlighting the peculiar nature of genetic resources. The legal framework may cover regu-



lations and administrative measures, in addition to the Law. This would underline the need to protect national and sub-regional interests in the area of genetic resources while providing “certainty» to the user in order to encourage them to invest in countries of the COMIFAC region.

The development of the legal framework should also take into account other multilateral environmental agreements (MEAs) or fora / processes that deal directly or indirectly with ABS issues. These include mainly CITES and the FAO Treaty on Plant Genetic Resources, WTO, WIPO, OAPI.

It would be equally important to incorporate incentives even if though they may be controversial. It would be desirable for the countries of the COMIFAC region not to place the emphasis on voluntary certification schemes because these are systems that create confusion when implementation is attempted, while offering few incentives to users. In addition, such a system does not guarantee acceptance by everyone. It is therefore best to opt for a certification system that will be imposed on all users, assuring that it is actually functional, that is, a system built on a highly effective and failproof mechanism and confirming that the user has fully complied with stipulated standards and is able to identify, monitor products and control their labelling.

The types of agreements and contracts are also the epicentre of the ABS process. In general, information on contracts

is scarce because of its confidential nature. The idea will be to design a standard model for the entire sub-region. The ABS management tool produced by Switzerland provides a model plan for designing the contract. This activity may then be specifically assigned to the Executive Secretariat of COMIFAC.

ABS legislation may include the following elements:

- globally
- Principles and objectives;
- Scope and field of application of the legal framework (Targeted resources);
- National Competent Authorities and other Competent Authorities at various levels;
- Provisions to be incorporated into national planning;
- Definition of terms;
- Legal status of resources;
- Scope of the regulatory regime;
- Administrative provisions of regulations;
- Procedures for developing and implementation of the regulations;
- Financial information;
- Procedures for obtaining Prior Informed Consent;
- Procedures for negotiating Mutually agreed terms;
- Provisions on compliance and agreements;
- Responsibility and compensation;
- Application;
- Access;
- Benefit-sharing;
- Traditional knowledge;
- Conservation and sustainable use;

- Certificate of origin and compliance with national law;
  - Tracking and monitoring mechanisms;
  - Sanctions in case of non-compliance including administrative, civil and penal measures;
  - Restrictions (conditions) on access for specific purposes and transfer to third parties.
- specifically:
    - Definition of obligations to be met;
    - Definition of the provisions of the material transfer agreement;
    - Definition of the duration of the agreement;
    - Notification of termination of the agreement;
    - Definition of clauses that might be useful after termination of the agreement;
    - Identification of the terms and conditions for applicability of clauses;
    - Notification of circumstances limiting the liability of each of the parties;
    - Definition of provisions relating to dispute settlement;
    - Definition of the rights of transfer of material;
    - Determination of terms or principles for the award, transfer or denial of the right to claim intellectual property rights or property rights over genetic resources obtained by virtue of the material transfer agreement;
    - Determination of the choice of the type of reference;
    - Formulation of confidentiality clauses;
    - Determination of ABS guarantee(s).
- With respect to access and benefit-sharing :
    - Description of resources covered by the agreement;
    - Description of authorised uses including potential uses of genetic resources and their products or derivatives under the agreement (research, reproduction, marketing, etc.);
    - Identification of terms and conditions relating to statements for purposes of information and authorisation to change use from the use originally envisaged at the time of access;
    - Definition of terms for provisions relating to intellectual property rights and related conditions;
    - Definition of the clauses of benefit-sharing agreements, including commitments to share monetary and non-monetary benefits;
    - Definition of provisions relating to transfer to third parties and conditions relating thereto;
    - Definition of responsibilities for impact on the environmental.

### e) Funding

The implementation of the strategy will require financial resources.

- The States are the primary source of funding. Each country is therefore invited to include a budget line in its annual budget that may serve to finance activities related to the implementation of the ABS process.
- The second source to be tapped into is the Convention's financial mechanism, which is the GEF. As a matter of fact, under GEF 5, an allowance will be

granted to each developing country, including those of the COMIFAC region for ABS capacity building. Each of the COMIFAC countries could, for instance, earmark 20% of this grant for the funding of activities at sub-regional level as part of a joint project and 80% for activities identified at national level.

- The third source of funding is the ABS Capacity Development Initiative for Africa. In fact, the second phase which is currently being planned and which spans the period from 2011-2013 could be devoted to the implementation of policy, legal and administrative provisions relating to ABS.

- The Countries and the COMIFAC Executive Secretariat could take advantage of the opportunity offered by the Congo Basin Forest Fund on the one hand and ECCAS on the other hand to mobilise funds by submitting ABS-related projects.

- The last source would be other actions initiated within the framework of bilateral or multilateral cooperation in the Environmental arena.

- For purposes of sustainability, it would be necessary for COMIFAC to consider the possibility of developing self-financing mechanisms.

## CONCLUSION

This sub-regional ABS strategy is globally a robust tool for the implementation of Objective 3 of the Convention on Biological Diversity (CBD), and Resolution 2 of the World Summit on Sustainable Development held in Johannesburg (2002). It is the outcome of reflection conducted with support from all development partners, civil society and experts from the Central Africa Bio-

diversity Working Group (GTBAC) of COMIFAC.

It is equally a technical orientation tool intended to guide COMIFAC member countries in formulating national ABS regimes and which will impact the socio-economic development of countries involved in the process.



## REFERENCES

**Anonymous. 2007.** Congo Basin Forests: State of the Forests 2006. Congo Basin Forest Partnership (CBFP). COMIFAC.

**COMIFAC, 2007:** Current status of institutional provisions and regulations on ABS issues and prospects in countries of the COMIFAC region. Yaounde: Executive Secretariat of the Central African Forests Commission.

**COMIFAC, 2009:** Identification of elements that can provide a basis for formulating the subregional strategy of the countries of the COMIFAC region on Access to biological and genetic resources and sharing of benefits arising from their use. Yaounde: Executive Secretariat of the Central African Forests Commission.

**COP6, 2002:** Bonn Guidelines on the Convention on Biological Diversity, Decision VI/24, 2002, online: <http://www.cbd.int/doc/publications/cbd-bonn-gdls-en.pdf>

**UNEP, 2002:** Report of the World Summit on Sustainable Development, A/CONF.199/20, New York, 4 September 2002, Resolution 2, parag. 44 (o), online: United Nations <http://daccessdds.un.org/doc/UNDOC/GEN/N02/636/94/PDF/N0263694.pdf?OpenElement> , p. 39.

**SCBD, 2002:** Bonn Guidelines on access to genetic resources and the fair and equitable sharing of benefits arising from their use. Montreal: Secretariat of the Convention on Biological Diversity.





# Commission des Forêts d'Afrique Centrale COMIFAC

## DECISION N° 004/COMIFAC/Pr/CM/CO.ORD/VI/11

*Portant adoption de la Stratégie des pays de l'espace COMIFAC relative à l'Accès aux ressources biologiques/génétiques et au Partage juste et équitable des Avantages découlant de leur utilisation (APA)*

### **LE PRESIDENT EN EXERCICE DE LA COMIFAC ;**

**Vu** la Déclaration des Chefs d'Etat d'Afrique Centrale du 17 mars 1999 sur la conservation et la gestion durable des forêts tropicales, dite « Déclaration de Yaoundé » ;

**Vu** le Traité du 05 février 2005 relatif à la Conservation et à la gestion durable des écosystèmes forestiers et instituant la Commission des Forêts d'Afrique Centrale, notamment ses articles 9 et 10 ;

**Vu** le Plan de Convergence de la Commission des Forêts d'Afrique Centrale relatif à la conservation et à la gestion durable des écosystèmes forestiers d'Afrique Centrale adopté le 05 février 2005 par les Chefs d'Etat d'Afrique Centrale ;

**Vu** le Plan d'Opérations triennal 2009-2011 du Plan de Convergence de la COMIFAC validé en juillet 2009 par les Ministres en charge des forêts et de l'environnement des pays d'Afrique Centrale ;

**Vu** les décisions et recommandations adoptées par la 6<sup>ème</sup> Session ordinaire du Conseil des Ministres en charge des Forêts et de l'Environnement des pays d'Afrique Centrale tenue à Kinshasa les 10 et 11 novembre 2010 ;

### **DECIDE**

#### **ARTICLE 1<sup>ER</sup> :**

Est adoptée la Stratégie des pays de l'espace COMIFAC relative à l'Accès aux ressources biologiques/génétiques et au Partage juste et équitable des Avantages découlant de leur utilisation (APA) ;

#### **ARTICLE 2 :**

1. Le Secrétariat Général de la CEEAC est invité à appuyer la mise en œuvre de la stratégie dans les pays à travers un programme régional de valorisation des ressources biologiques/génétiques.
2. Le Secrétariat Exécutif de la COMIFAC est chargé d'élaborer un projet de cadre d'appui légal en matière d'APA en vue d'appuyer les pays membres de la COMIFAC à se doter de législations harmonisées sur APA.

#### **ARTICLE 3 :**

La présente décision prend effet à compter de la date de sa signature et sera communiquée partout où besoin sera.

Fait à Kinshasa, le

12 5 JAN 2011

**Le Président en Exercice,**

**Jose E. B. ENDINDO**

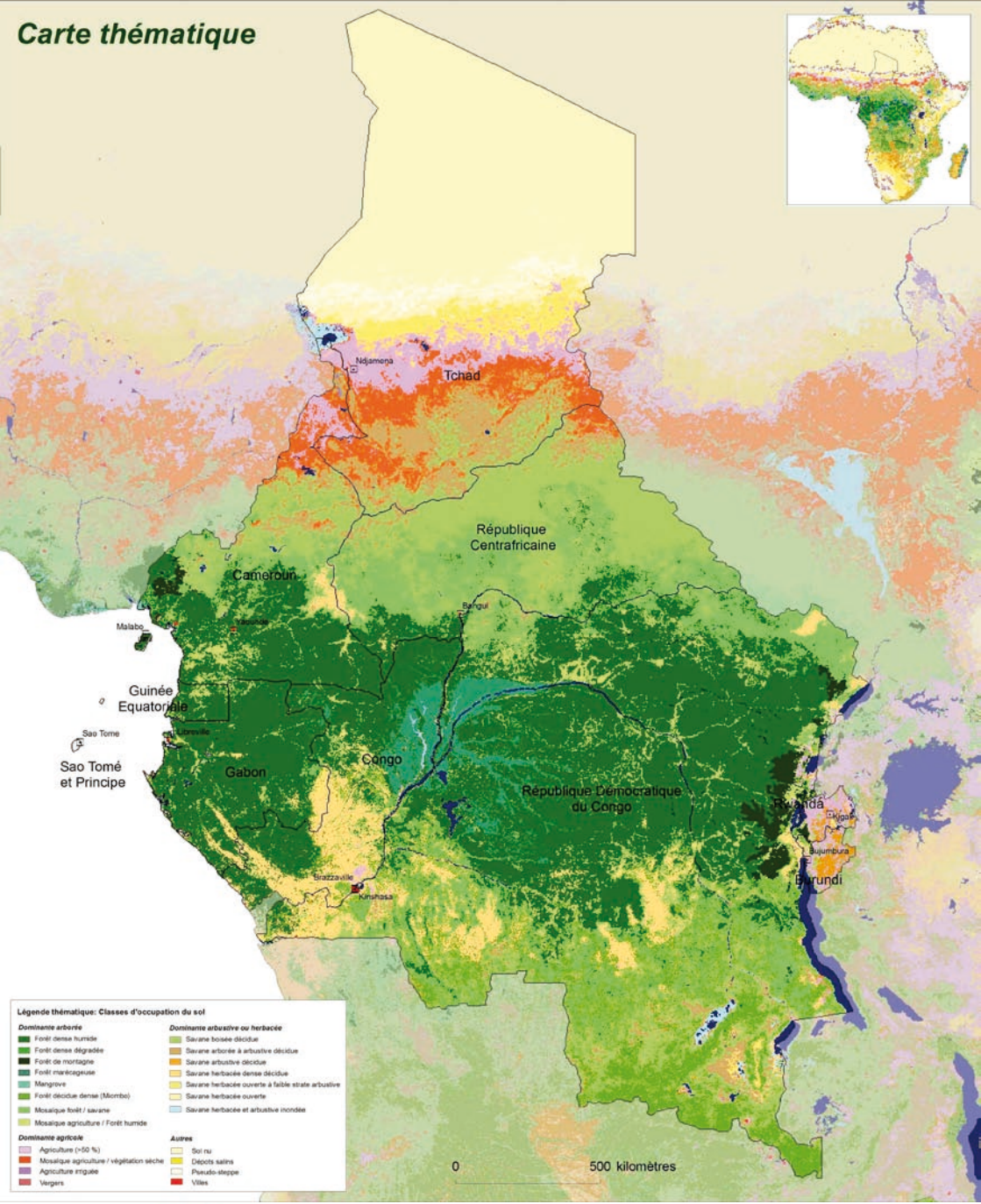
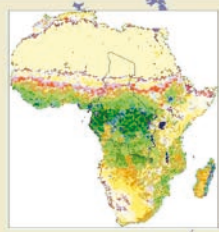
Ministre de l'Environnement, Conservation  
de la Nature et Tourisme de la  
République Démocratique du Congo



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# Carte thématique



**Légende thématique: Classes d'occupation du sol**

<ul style="list-style-type: none"> <li>Forêt dense humide</li> <li>Forêt dense dégradée</li> <li>Forêt de montagne</li> <li>Forêt marécageuse</li> <li>Forêt décidue dense (Miombo)</li> <li>Mosaïque forêt / savane</li> <li>Mosaïque agricole / Forêt humide</li> </ul>	<ul style="list-style-type: none"> <li>Savane boisée décidue</li> <li>Savane arborée à arbustive décidue</li> <li>Savane arbustive décidue</li> <li>Savane herbacée dense décidue</li> <li>Savane herbacée ouverte à faible strate arbustive</li> <li>Savane herbacée ouverte</li> <li>Savane herbacée et arbustive inondée</li> </ul>
<ul style="list-style-type: none"> <li>Agriculture (&gt;50 %)</li> <li>Mosaïque agricole / végétation sèche</li> <li>Agriculture irriguée</li> <li>Vegeter</li> </ul>	<ul style="list-style-type: none"> <li>Sol nu</li> <li>Dépôts salins</li> <li>Pseudo-steppe</li> <li>Villes</li> </ul>



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