

The access mechanism and benefit-sharing in Morocco

With the support of the German-Moroccan Programme for Cooperation
"Adapting to climate change and making profitable use of biodiversity"

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The effective sustainable sale of non-wood forest products requires a favourable legislative framework stipulating quotas and methods of harvesting, regulating rights of access to forest resources and also guaranteeing the rights of the local communities. All this encompasses a guarantee of the equitable sharing of the economic benefits deriving from the use of non-wood forest products. Such is the objective of the access mechanism and benefit-sharing or APA.

Along with the Framework Convention on Climate Change, the Convention on Biological Diversity (CBD) is one of the two conventions signed by the international community at the time of the Earth Summit, held in Rio de Janeiro in Brazil in 1992. The CBD took effect on December 29, 1993. To date, it has been ratified by 194 countries.

Three fundamental objectives in the Convention represent the commitment of the world's nations:

- the conservation of biological diversity;
- the sustainable use of its constituent parts;
- the just and equitable sharing of the benefits deriving from the use of genetic resources, thanks notably to satisfactory access to genetic resources and an appropriate transfer of the relevant techniques, taking into account all the rights held to these resources and techniques, and to adequate funding.

This Convention was signed by Morocco at Rio on June 13, 1992 and ratified on August 21, 1995. For over 20 years, the Kingdom of Morocco has been committed, within the framework of the CBD, to conserving and sustainably using its biological diversity and to implementing measures facilitating access to genetic resources and to just and equitable sharing of the benefits deriving from their use (APA).

The Nagoya Protocol

The Nagoya Protocol is a new international treaty adopted in Japan which is the follow-up to, and backing for, the Convention on Biological Diversity (CBD), notably in relation to one of its objectives: the just and equitable sharing of the benefits deriving from the use of genetic resources. The Protocol came into effect on October 12, 2014 when it was ratified by 54 countries.

The Nagoya Protocol ensures greater legal certainty and more clarity and transparency, as much for suppliers as for users of genetic resources. By contributing to ensuring a sharing of the benefits, the Protocol creates incentives favourable to the conservation and sustainable use of genetic resources and it thus reinforces the contribution of biological diversity to human development and welfare.

Of course, before the coming into force of the CBD, Morocco had long been making efforts to preserve the features of its living natural heritage. In fact, community practices hundreds of years old have underpinned a long tradition in relation to nature conservancy. Certain legal provisions dating from the beginning of the 20th century concerned forest and woodland conservation and the protection of wetlands, the policing of hunting, regulating maritime fishing, etc. As of the 1940s, national programmes were adopted for the creation of national parks and various actions were undertaken by the central government and regional and local authorities to safeguard biodiversity and natural resources.

As a means to establishing rules and procedures for implementing the third objective of the Convention on Biological Diversity, the 10th meeting of the Conference of Parties adopted the Nagoya Protocol on access to genetic resources and the just and equitable sharing of the benefits deriving from their use.

Thanks to the Nagoya Protocol, access to genetic resources requires the prior informed consent (PIC) of the party supplying the resources in accordance with the national legislation concerning APA and the benefits arising from their use must be shared with the supplier in accordance with mutually-agreed terms (MAT).

The implementation of the Nagoya Protocol by Morocco followed the timetable below:

- signature of the protocol in December 2011;
- adoption by the Government Council in March 2012;
- adoption by parliament in July 2012;
- adoption by the parliament's upper house in March 2013;
- publication in the official record in July 2013.

The German-Moroccan Programme for Cooperation “Adapting to climate change and making profitable use of biodiversity / Nagoya Protocol”, carried out jointly with the Delegated Ministry for the Environment (DME) and the High Commission for Water, Forests and the Fight against Desertification (HCWFFD), has backed up the DME in the implementation of the Nagoya Protocol via the following strategic lines:

- drafting a bill for APA legislation in accordance with the Nagoya Protocol, submitted to the DME in December 2014;
- designing a suitable institutional structure: two scenarios for setting up a National Authority responsible for APA;
- conclusion of pilot agreements:
 - * a model for the PIC (prior informed consent)
 - * a model for the MAT (mutually-agreed terms);
 - * a project for a mixed public-private partnership respecting the concept of APA has been formally agreed to with a foreign user of a plant genetic resource from Morocco, a local cooperative (supplier of the resource) and a public institute for research and development.
- raising awareness by:
 - * designing a strategy for APA communication;
 - * drafting a document on the integration of APA information into the Moroccan Centre for the Exchange of Information on biodiversity;
 - * a contribution to R&D by the adoption of and the drafting (currently under way) of a national R&D strategy.

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