

Terms of Reference

National Consultant to undertake a Situational Analysis on South African enterprises within the Bioprospecting/ Biotrade Sector, implementing Access and Benefit-Sharing (ABS), in order to understand how the sector applies ABS in their business model (s)

Type of Contract: IC (Local Consultant)
Languages: English
Duration: 07 December 2018 – 01 April 2019 (approximately 60 working days)
Location: South Africa

1. Background

1.1. Introduction:

The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS), an agreement under the Convention on Biological Diversity, was adopted on 29 October 2010 in Nagoya (Japan) and entered into force on 12 October 2014, it provides a transparent legal framework for the effective implementation of the 3rd objective of the Convention on Biological Diversity (CBD). The Protocol applies to genetic resources that are covered by the CBD and to the benefits arising from their utilization, it also covers traditional knowledge (TK) associated with genetic resources held by indigenous and local communities. Contracting parties to the Nagoya Protocol need to fulfil core obligations to take measures in relation to access to genetic resources, benefit-sharing and compliance.

The UNDP-GEF Global ABS Project *“Strengthening human resources, legal frameworks, and institutional capacities to implement the Nagoya Protocol”* is a 3-year project that specifically aims at assisting 24 countries in the development and strengthening of their national ABS frameworks, human resources, and administrative capabilities to implement the Nagoya Protocol. The project seeks to achieve this through its 4 components, namely:

- Component 1: Strengthening the legal, policy and institutional capacity to develop national ABS frameworks;
- Component 2: Building trust between users and providers of genetic resources to facilitate the identification of bio-discovery efforts; and
- Component 3: Strengthening the capacity of indigenous and local communities to contribute to the implementation of the Nagoya Protocol.
- Component 4: Implementing a Community of Practice and South-South Cooperation Framework on ABS.

The implementation of the basic measures of the Nagoya Protocol in South Africa similarly to the other participating countries will unleash a wide range of monetary and non-monetary benefits for providers of genetic resources. Some of these benefits should be reinvested in the

conservation and sustainable use of the biological resources from where the genetic resources were obtained. This will fulfil the three objectives of the Convention on Biological Diversity.

As per the approved Annual Work Plans for the year 2018 for South Africa, the project will proceed with the recruitment of a national consultant to undertake a situational analysis on South African enterprises within the Bioprospecting/ Biotrade Sector, implementing Access and Benefit- Sharing (ABS), in order to understand how the sector applies ABS in their business model(s). In this undertaking it is also important to determine lessons learned and recommend best practices/ model(s) adopted by such businesses to achieve the objectives of the Nagoya Protocol on ABS.

South Africa Context:

South Africa is the third most biologically diverse country in the world in terms of species richness and endemism. Conservation and sustainable use of South Africa's biological diversity is thus of strategic importance in terms of provision of ecosystem services, now and in the future. This species richness provides an important basis for economic growth and development that underpins the well-being of society. The biodiversity economy of South Africa encompasses the businesses and economic activities that either directly depends on biodiversity for their core business or that contribute to conservation of biodiversity through their activities. In other words, the ambit of the biodiversity economy is bioprospecting (such as research on, or development or application of, indigenous biological/genetic resources for commercial or industrial exploitation and includes the systematic search, collection, or gathering of such resources or making extractions from such resources; the utilization of information regarding any traditional uses of such resources by indigenous communities; and the research on, or the application, development, or modification of such traditional uses for commercial exploitation; and the trading in and exportation of indigenous biological/genetic resources in order to develop and produce products such as medicines, industrial enzymes, food flavors, fragrances, cosmetics, colors, extracts and essential oils), and wildlife sub-sectors (such as live sales of indigenous wildlife, sale of game meat, and the hunting industry). Sustainable use of South Africa's genetic and biological resources has the potential to support many local economies and livelihoods in the country, providing business and job creation opportunities for individuals and communities.

The bioprospecting/ biotrade sub-sector of the biodiversity economy have already demonstrated the potential for significant future development and growth. The contribution of the biodiversity economy to the national economy can be measured in terms of Gross Domestic Product (GDP). Growth in the bioprospecting industries can make a significant impact on the national economy, while contributing to national imperatives such as job creation, rural development, and conservation of our natural resources. However, for the bioprospecting subsector to achieve its

full potential, a strategic partnership between the state, private sector, and communities is required.

Legal and Institutional Context

South Africa is a Party to the Nagoya Protocol since its entry into force on October 12, 2014. South Africa has a well-developed and progressive policy framework for biodiversity management. The country is one of the few countries to put in place national legislation that gives effect to Articles 15 and 8(j) of the CBD, which recognize the importance of regulated access to genetic resources as well as their associated TK by requiring the users of these resources to obtain PIC and negotiate mutually agreed terms to share the benefits derived from commercial or non-commercial exploitation of such resources in a fair and equitable manner with the provider of such resources and knowledge, including ILCs. The framework legislation to regulate ABS issues is the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004). This legislation was built on the basis of the White Paper on Environmental Management Policy of 1998, the National Environmental Management Act, 1998 (Act No. 108 of 1998), the CBD, and the Bonn Guidelines on ABS.

The objectives of the Biodiversity Act are to provide for: a) the management and conservation of biological diversity within the country; b) the use of indigenous biological resources in a sustainable manner; c) the fair and equitable sharing among stakeholders of benefits arising from bioprospecting involving indigenous biological resources; and d) to give effect to ratified international agreements relating to biodiversity which are binding on the Republic. ABS aspects of the Biodiversity Act are being implemented through the Bioprospecting, Access, and Benefit-Sharing (BABS) Amendment Regulations. These regulations provide for: a) the notification process for the discovery phase of bioprospecting involving any indigenous genetic and biological resources; b) a permitting system for bioprospecting and biotrade activities involving any indigenous genetic and biological resources or export from the Republic of any indigenous genetic and biological resources for the purposes of bioprospecting, biotrade or any other kind of research; c) form and content of and requirements and criteria for benefit-sharing and material transfer agreements; and d) establishing the administrative process of the Bioprospecting Trust Fund. South Africa published its NBSAP in 2005 and a revised and updated NBSAP is aligned with the Aichi Biodiversity Targets. Along with the National Biodiversity Assessment (2011), these documents serve as the basis for the National Biodiversity Framework (NBF), which is updated every five years, as required by the Biodiversity Act. The Department of Environmental Affairs is the designated institution where the Nagoya Protocol on ABS focal point is hosted.

Baseline investments

Existing and planned investments for programs and baseline activities for the 2016-2019 period in South Africa are estimated to be \$750,000 USD. This will include an investment by the UNDP of \$50,000 USD in support of strengthening of the legal and institutional frameworks for the implementation of the Nagoya Protocol, promoting bio-discovery initiatives, and promoting the participation of ILCs in implementing the Nagoya Protocol. Baseline investments will also include \$700,000 USD from the Department of Environmental Affairs, which will provide technical support to the Bioprospecting and Biodiversity Economy initiative in the country.

1.2.Objectives of the assignment

The national consultant's (based in South Africa) primary objective is to conduct and develop a report on a Situational Analysis on South African enterprises within the Bioprospecting/ Biotrade Sector, implementing Access and Benefit- Sharing (ABS), in order to understand how the sector applies ABS in their business models.

The objectives of the assignment are as follows:

- To determine an enterprise spectrum, at a sector level, based on the bioprospecting/ biotrade sector funding scope (for profit, not for profit, both);
- To determine scope and extent of business activities related to biodiversity;
- To determine ABS applications in biodiversity-based businesses; and
- To identify and recommend best practices on the implementation of ABS in biodiversity-based businesses.

2. Description of Responsibilities

The Consultant shall work in close coordination with the project country team including, at minimum the National Project Manager/ Coordinator and relevant Officers at DEA, the Project Manager from the UNDP Country Office and the Regional Project Specialist for South Africa from the Global ABS project team.

The consultant will adhere to National procedures for development and adoption of studies. The consultant will be responsible for the provision of the following services:

Phase I: Conduct interviews/ consultations with enterprises, which have to be identified in order to determine the following factors, *inter alia*:

- *Enterprise characteristics:*
 - Profile of type of enterprises- within the sector (e.g. entrepreneurs or social entrepreneurs; SMME or larger business),
 - Description of form of business ownership adopted,
 - Description of funding model adopted, and
 - Markets Analysis (national and international),

- *Business Operations related to Biodiversity:*
 - Delineate the Scope of the Business Operations (including which indigenous biological/genetic resource is utilised in the process, as well as the associated Traditional Knowledge),
 - Map out the level at which the Business Operations are situated within the bioprospecting/ biotrade value chain, and
 - Map out the value chain (s) within the business operations.

- *Application of the Access and Benefit-Sharing (ABS):*
 - Consider approach(es) to implement ABS requirements in the business operational model (e.g. Corporate Social Responsibility/Broad-Based Black Economic Empowerment- based on business mission)
 - Analyse the Financial Model applied by the business to implement ABS,
 - Ratio of financial benefits dedicated towards the implementation of ABS,
 - Assess the socio-economic impacts from the approach(es) adopted to implement ABS,
 - Mainstream gender considerations into the assessment of ABS business models by considering gender-responsive ABS schemes to enable the effective participation of women in the design, negotiation, distribution and use of benefits; and apply the gender analysis as an analytical tool in ABS value chains by: 1) mapping-out gender roles, 2) Identifying social determinants, 3) noticing interlinkages, 4) supporting the design of gender-smart ABS business models, and
 - Identify lessons learned, by business, on implementation of ABS.

Phase II: Analyse data on various approaches applied by business(es) on implementation of ABS, in relation to the achievement of ABS objectives, including gender analyses of the selected business models, as detailed above under Phase I.

Phase III: Provide recommendations on best practices, within various business(es), on the implementation of ABS.

Phase IV: Conduct two (2) workshops with stakeholders to present the findings and inputs in the Draft Situational Analysis;

Phase V: The consultant shall submit the draft Situational Analysis Report to the Project Manager for 2 reviews, and incorporate amendments as required by the Project Manager to the final Situational Analysis Report prior to the final submission to the DEA.

Phase VI: Produce and deliver 2 branded soft copies and 1 hard copy of Situational Analysis and validated recommendations on best practices professionally prepared in word and pdf format (branding must be aligned to the Department Policy and the UNDP-GEF Global ABS Project Requirements).

The Consultant shall consider the following indicative milestones:

- i. A concise methodology to undertake the study.
- ii. Weekly progress reports (soft copy) and three meetings with the Project Manager (one inception meeting before the project commences, one check-in meeting and one close out meeting).
- iii. Recommend best practices on the implementation of ABS in biodiversity based businesses.
- iv. Final Situational Analysis with the comments from the DEA team incorporated and a PowerPoint presentation of the final version of the Situational Analysis should be submitted at the end of contract.

2.1 Duration:

The consultant is expected to work 60 working days over a 4-months period.

2.2 Deliverables:

The specific deliverables and payment schedule is provided in the table below.

Deliverable	Time	Payment term
Deliverable 1: Inception report detailing timeframes; conceptual framework; proposed content headings of Deliverables 2-5; methodologies and approach to be used; and stakeholders to be consulted. A mandatory briefing session with DEA and UNDP is required to support the drafting of Inception Report.	Within 2 weeks after contracting	10% Work input: 2 weeks
Deliverable 2: Draft Report to present the results of the interviews/ consultations (conducted under Phase I) and of the analysis (conducted under phase II), including gender analyses of selected ABS business models.	TBD (in 2019)	30% Work input: 18 days
Deliverable 3: Draft recommendations on ABS best practices (as described above under Phase III).	TBD (in 2019)	25% Work input: 15 days
Deliverable 4: Final Situational Analysis Report submitted to DEA, following two stakeholder consultation workshops (Phase IV) and the peer-review of the draft Situational Analysis Report (Phase V),	TBD (in 2019)	25% Work input: 15 days
Deliverable 5: Closing Report , which must be inclusive of all validated outcomes/deliverables resulting from this consultancy as further specified under phase VI .	On or before 01 March 2019.	10% Work input: 6 days

2.3 Travel:

The country team will agree, in consultation with the local consultant, the number of field missions to be conducted, if any, and the duration for each mission in accordance with its

national needs. An indicative planning shall be developed at the induction session following the hiring of the consultant.

The lump sum amount indicated in the financial proposal must be “all-inclusive”¹ as per UNDP rules and regulations.

3. Competencies:

- Knowledge of how the natural product business environment functions/Entrepreneurship/Social Entrepreneurship;
- Knowledge on economic valuation of biodiversity/genetic resources;
- Knowledge on business plan analysis;
- Knowledge on biodiversity based value chain creation and analysis;
- Ability to provide domestic guidance on implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation (ABS);
- Knowledge of cooperative governance principles and policies and ability to apply strategic and/or practical approaches;
- Ability to work with multiple stakeholders across a wide range of disciplines.
- Ability to apply development theory to the specific country context to identify creative, practical approaches to overcome challenging situations.
- Seeks and applies knowledge, information, and best practices from within and outside of UNDP.
- Maintains relationships with clients, focuses on impact and result for the client and responds positively to feedback;

4. Qualifications

4.1 Academic Qualifications/Education:

- Minimum Master’s degree in environmental/business/environmental finance or any other related field.

4.2 Experience:

- At least 5 years of experience in working with key South African industries (cosmetics, personal care, health and food) using biological or genetic resource/associated traditional knowledge;
- Good knowledge and understanding of SMMEs, and value chain development, especially in South Africa;

¹ The term “All inclusive” implies that all costs (professional fees, travel costs, living allowances, communications, consumables, etc.) that could possibly be incurred by the Contractor are already factored into the final amounts submitted in the proposal.

- Knowledgeable of South Africa’s National Development Plan-Vision 2030 and the linked National Biodiversity Economy Strategy;
- Good knowledge of South Africa’s Broad-Based Black Economic Empowerment (BBBEE) policies and requirements;
- previous work experience in South Africa or in the Africa region related to Access to Biological/Genetic Resources and Benefit-Sharing;
- Experience in gender mainstreaming;
- Working experience in an international organization or knowledge of UN policies, procedures and practices is an asset.

4.3 Language skills:

Excellent writing, including report writing, editing, and oral communication skills in English.

5. Evaluation of Applicants

Applications will be evaluated based on a lowest priced technically responsive proposal. The award of the contract would be made to the individual consultant whose offer has been evaluated and determined as:

a) responsive/compliant/acceptable, and

b) Having received the technical score of 70% and above with the lowest financial proposal

Only those candidates who obtained at least 70% of points in each of the steps of the process will be considered for financial proposal evaluation.

CRITERIA	WEIGHTED SCORE
• Relevant education background	10
• At least 5 years of experience in working with key industries (cosmetics, personal care, health and food) using biological or genetic resource/associated traditional knowledge and ability to provide domestic guidance on implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation (ABS);	20
• Working experience on biodiversity based value chain creation and development; business plan development and analysis	10
• Working experience with international organisations or knowledge of UN policies, procedures and practices	5
• Previous work experience in the region on business issues related to Access to Genetic Resources and Benefit-Sharing	15
• Excellent writing, editing, and oral communication skills in English	5
• Good understanding of stakeholders in the South African bioprospecting/biotrade sector	5

6. Application procedures

The application should contain:

- **Cover letter** explaining why you are the most suitable candidate for the advertised position and a **brief methodological note on how the work will be undertaken** “describing the main challenges to implement the Nagoya Protocol in South Africa and providing the necessary guidance on how to conduct the national assessments and gap analyses, harmonisation benchmarks,”.

- **Financial Proposal*** - specifying a total lump sum amount for the tasks specified in this advertisement. The financial proposal must include a breakdown of this lump sum amount (number of anticipated working days and any other possible costs). **Please note that the **financial proposal is all-inclusive** and shall take into account various expenses incurred by the consultant/contractor during the contract period*

Qualified candidates are requested to submit their proposals online via this email:
procurement.za@undp.org by date:03rd December 2018 with reference number:50712