

TERMS OF REFERENCE

Individual Contractor

1. Assignment Information

Assignment Title:	Develop National ABS Legislation and its Rules and Regulations
Cluster/Project:	Programme Unit
Post Level:	Senior Specialist (International Consultant)
Contract Type:	Individual Contractor (IC)
Duty Station:	Home-based or based in Ministry of Environment
Expected Place of Travel:	Phnom Penh, Cambodia with target areas in-country missions within Cambodia
Contract Duration:	20 days (from December 2020 to April 2021)

2. Project Description

Cambodia's specific geographical location and long history and complicated topographical, ecological and social features has resulted in it becoming a prosperous, rich and diverse plant genetic resource country. While diverse climatic conditions diversified the country's flora with both tropical and temperate plants, thousands of years of agricultural practice by ethnic groups enriched its crop genetic resources with large numbers of local cultivars and land races. In terms of medicinal plants, the high level of genetic diversity makes Cambodia an attractive country for bio-prospecting, especially given that there are approximately 800 known medicinal plants, many of which have associated traditional knowledge. However, Cambodia faces a wide range of issues that threaten its biological diversity and ecological security. These threats emanate from the transition from a subsistence-based agrarian economy to a consumption-based cash economy, competing land use from urbanization and infrastructure development, poaching of wild plants and animals, localized overharvesting of timber, fuel wood and non-wood forest products, human-wildlife conflicts, and climate change. Because of the threat to biological resources, the traditional knowledge of local communities that is associated with genetic resources is disappearing rapidly, due to the change of traditional lifestyles. A large volume of traditional knowledge, such as medicinal use of biological resources, is being replaced by modern technology. The National Biodiversity Strategy and Action Plan (NBSAP) of Cambodia was adopted in 2002. The NBSAP identified equity as the most important thing biological resources sustainably in the long run and calls for consideration of poor and economically disadvantage group to secure their access to common resources.

To counter the various threats to biodiversity, the country has planned various strategies for the conservation and sustainable use of biological resources for socio-economic development. However, making use of its biodiversity and traditional knowledge for the promotion of bioprospecting and of access and benefit- sharing (ABS) national regime that is constrained by several factors. Cambodia has no existing policy or legislation on ABS, the government recognizes the importance of establishing innovative schemes to derive equitable benefits through economic activities that are linked to sustainable utilization of natural resources and the institutional and personal capacity to carry out bio-prospecting beyond basic level and develop and manage ABS schemes that are compliant with Nagoya Protocol.

The project aims at strengthening human resources, legal frameworks and institutional capacities on access and benefit sharing of genetic resources to facilitate the implementation of the Nagoya Protocol on Access and Benefit Sharing. The above objective would be achieved through two components, namely

- Component 1:** Creating an enabling national policy, legal and institutional framework for ABS consistent with the CBD and its Nagoya Protocol
- Component 2:** Developing capacity and administrative measures for the implementation of the national ABS legal framework.

The specific problem that this project will seek to address is the lack of a functioning national legal, policy, and institutional framework that will enable the equitable sharing of benefits from the use of genetic resources and traditional knowledge (TK) between the state (national and state governments), commercial interests, and the owners and custodians of these resources and TK (such as Indigenous and Local Communities [ILCs]). This issue is compounded by the lack of trust between users and providers of genetic resources that prevents unleashing the potential of genetic resources as a source of innovation, biodiversity conservation, market development, and poverty alleviation.

Following an inception workshop organized in June 2019 and project work plan, and in order to take the project implementation forward, Cambodia is looking for an experienced international consultant to develop the new national ABS legislation to facilitate Cambodia in the implementation of obligations set out in the Nagoya Protocol, in particular, to ensure complementarity with articles of Nagoya Protocol and best international legal practice. This shall also include the review and identification of key elements to be included into the outline/structure/skeleton of the established ABS instrument such as Sub-decree, proclamation (Prakas) and circulars. S/he will work with the national consultant(s) to produce national ABS legislation and its rules and regulations based on the finding from stocktaking exercise and gap analysis.

3. Scope of Work and objective

Under the overall guidance and supervision of the National Project Director, Project Coordinator, the selected International Consultant will be responsible for:

- S/he will develop national preliminary ABS legislation, which is stated in the Gap Analysis of ABS legislation in Cambodia in compliance with the Nagoya Protocol, annex 2;
- Review and define key elements into the proposed ABS outline/structure/skeleton which reflected to national circumstances and guidelines of drafting Cambodian legislation with supporting references and explanations;
- Together with national consultant, review and update stocktaking exercise to support the development of national ABS legislation;
- Work closely with the national consultant(s) and guide them in designing the national and sub-regional/local stakeholder consultation meetings.
- Provide the international perspectives presentation during the stakeholder consultation meetings.
- Participate in the consultation meeting and workshop, the ABS Sub-TWG meeting at the national level;
- Consolidate the comments, recommendations and feedback from stakeholders' consultation meeting, workshop(s) and ABS Sub-TWG meeting with support from the national consultant;
- Compile reports about the finding and documentation;
- Submit the final draft national ABS legislation to project management unit (PMU), UNDP for review

and PD for approval; and

4. Expected Outputs and Deliverables

No.	Deliverables/Outputs	# of day	Target Due Dates	Review and Approvals Required
1	Deliverable 1: Submit to PMU, UNDP the Methodology, work plan and budget plan	2 days	3rd week of December 2020	Reviewed by Project Coordinator and approved by Project Director
2	Deliverable 2: Submit to PMU and MoE the First draft of national ABS legislation	13 days	4 th week of January 2021	
3	Deliverable 3: Submit to PMU and MoE the Final draft of national ABS legislation	5 days	4 th week of March 2021	

5. Institutional Arrangement

The consultant will work directly with Project Director, Project Coordinator to get support and guidance from them. The International consultant will liaise day-to-day work with the local consultant and the Project Coordinator. S/he will also work closely with the relevant institutions, development partners and academic/research institutions to ensure full cooperation and collaboration from all stakeholders.

The national legal consultant will be recruited by MoE to provide the support to the international from Cambodia based on the number of working days needed from the international consultant.

6. Duration of the Work

The assignment is expected to be completed within 20 days between from December 2020 to 30 April 2021. In Cambodia, the working week is from Monday to Friday. The consultant is expected to spend 25 working days in Cambodia for interview with the stakeholders in Cambodia and produce the ABS Legislation report. It is expected that the final draft report will be submitted by second week of 4 week of March 2021.

7. Duty Station

Given the current situation of COVID 19, the consultant will work from home (if s/he is living outside of Cambodia) but would be amenable to have one mission to Cambodia during the period of the contract if the situation is returned to normal. The airfare and living allowance cost for the mission in Cambodia will be reimbursed to a consultant by the project. The international consultant shall responsible for all costs for mission to the 5 days provinces (Mondulkiri, Ratanakiri, Presh Vihea). In such case S/he will be based at the Ministry of Environment with the office space provided by MoE.

8. Minimum Qualifications of the Individual Contractor

Education:	<ul style="list-style-type: none"> At least Master or PhD (is preferable) degree in Environment law or policy relevant to natural resource management or environmental science, genetic resources, ecosystem services, and/or related field.
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Experience:	<ul style="list-style-type: none"> • Prior experience in drafting or developing legislation on NRM or specific to ABS including research and development, knowledge on Nagoya Protocol, particularly ABS-related issues – min 10 years; • Proven experience in ABS procedure, policy and legislation development in both user and provider countries; • Specific international or country experience working on programs, projects research through any international or bilateral organization on ABS, INRM or negotiation related to fair and equitable sharing of benefit arising from the use of natural/genetic resources of the CBD will be an asset.
Competencies:	<ul style="list-style-type: none"> • Strong analytical skills and ability in development of Policy and Frameworks; • Excellent analytical capacity and ability to synthesize project outputs and relevant findings for the preparation of quality project reports; • Ability to understand ABS terminology and its concepts and to analysis/synthesize information from different sources into a coherent project log-frame and framework; • Skill in achieving results through persuading, influencing and working with others; • Maturity and confidence in dealing with senior members of international, regional and national institutions; • Displays sensitivity and adaptability to different cultures, genders, religions, races, nationalities and age groups; • Good team player, self-starter, has ability to work under minimum supervision and maintain good relationships.
Language:	<ul style="list-style-type: none"> • Fluency in English required; • Knowledge of Khmer is of advantage

9. Criteria for Evaluation of Level of Technical Compliance of Individual Contractor

Technical Evaluation Criteria	Obtainable Score
At least 10 years relevant work experience in the preparation of regulatory instruments related to the natural resources, and ABS mechanisms (ABS procedures, policy development, biodiversity conservation, TK, familiar with Nagoya Protocol).	60
Relevant educational background	10
Experience in UNDP Programming cycle, applied rule and regulation	15
Country-specific experience working on ABS/INRM-related programs, projects or research supported by international or bilateral organizations.	15
Total Obtainable Score:	100

10. Payment Milestones

The consultant will be paid on a lump sum basis under the following installments.

No	Outputs/Deliveries	Payment Schedule	Payment Amount
1	Upon satisfactory completion of Deliverable 1	1 st week of December 2020	20%
2	Upon satisfactory completion of Deliverable 2	4 th week of January 2021	40%
3	Upon satisfactory completion of Deliverable 3	3 rd week of February 2021	40%