



National Legal Consultant for the Drafting of Legal Instruments on Access and Benefit Sharing in Rwanda

Application type:	External vacancy
Job Title:	National Legal Consultant
Category	Environment / Law
Duty station	Kigali, Rwanda (Home based)
Application Deadline:	11th March 2019
Type of contract:	National Individual Contract
Expected starting date:	Immediately
Duration	60 working days in 4 calendar months

1. Background

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 Project “Strengthening human resources, legal frameworks, and institutional capacities to implement the Nagoya Protocol” (Global ABS Project) 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 Rwanda 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.

Rwanda ratified the Nagoya Protocol on October 12, 2014. In order to develop an enabling environment, a legal and institutional framework for the implementation of the Protocol is in need. Rwanda adopted a Biodiversity Policy in 2011 and a Biodiversity Law in 2013, which includes a clause on bioprospecting but is in need of a stronger reference to the ABS with specific institutional arrangements to anchor further orders and regulations. A draft Ministerial Order governing the Biodiversity permits has been developed and some of its articles determine the access to genetic resources and the fair and equitable sharing of benefits arising from their use, however is in need of a revision. Other related existing laws are the law no 48/2018 of 13/08/2018 on environment which determines modalities for protecting, conserving and promoting the environment, in Rwanda, especially in its article 28; Law No. 70/2013 of 02/09/2013, which governs biodiversity in Rwanda, especially in its Article 29; and Law No. 31/2009 of 26/10/2009, which enforces protection of intellectual property rights (IPR).

Rwanda Environment Management Authority (REMA) is the designated institution where the CBD and ABS focal points are hosted. The implementation of the basic measures of the Nagoya Protocol in Rwanda as one of the 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.

2. Objective and Scope of work

The National Legal Consultant will draft the revision of two legal instruments in Rwanda; the existing Biodiversity Law and a draft Ministerial Order to reflect the Nagoya Protocol and the Access and Benefit Sharing (ABS) mechanism, as well as draft a set of comprehensive regulations (also called guidelines). The consultant will conduct a gap analysis for the implementation of ABS in Rwanda, conduct a thorough stakeholder consultation, draft new or revised clauses following the Rwandan legal structure and elaborate the necessary information into a comprehensive set of regulations.

Specific tasks will include:

- To conduct a gap analysis of the existing legal instruments, regulations and policies of relevance for the implementation of the Nagoya Protocol in Rwanda
- To conduct stakeholder consultation, consultation with the national technical advisory committee (NTAC) and thorough desk review on the existing Biodiversity Law, draft Ministerial Order and related documents
- To revisit the chapter of the Biodiversity Law on bioprospecting, access and benefit sharing to comprehensively accommodate Access and Benefit Sharing (ABS) obligations as set out in the Nagoya Protocol, including the specification of related institutions (National Competent Authorities) and procedures for obtaining permits as well as other related provisions

- To revise an existing draft Ministerial Order on Access and Benefit Sharing anchoring on the revised Biodiversity Law, which provides required forms for implementation of the order
- To draft a new set of regulations which detail the components in the Ministerial Order. This will include but will not be limited to guidelines on the ABS procedures, related institutions, monitoring and reporting and other obligations
- To lead and present at stakeholder validation workshops of the Biodiversity Law revision, Ministerial Order revision and comprehensive regulations.
- The consultant may be requested to travel (both domestic or internationally) to attend ABS related trainings and workshops to gain understanding of the mechanism.

3. Outputs/Expected deliverables

The National Legal Consultant will provide the following key deliverables:

Deliverable 1: Legal gap analysis report, which also serves as an inception report to the remaining deliverables. 10 work days, to be delivered within 2 weeks from the signing of the contract.

Deliverable 2: Draft Biodiversity Law revision on clauses related to ABS. 15 work days, to be delivered within 1.5 months from the signing of the contract.

Deliverable 3: Final validated Biodiversity Law revision on clauses related to ABS, which addresses comments from and validated by stakeholders. 2 work days, to be delivered within 2 months from the signing of the contract.

Deliverable 4: Draft revised Ministerial Order on ABS and its annexes. 10 work days, to be delivered within 4 months from the signing of the contract.

Deliverable 5: Final revised Ministerial Order on ABS and its annexes, which addresses comments from and validated by stakeholders. 3 work days, to be delivered within 5 months from the signing of the contract.

Deliverable 6: Draft regulations. 15 work days, to be delivered within 5 months from the signing of the contract.

Deliverable 7: Final regulations. 5 work days, to be delivered within 6 months from the signing of the contract.

4. Duration of the contract

The assignment is expected to take 60 work days from the signature date in the period of 4 months.

5. Institutional arrangement

UNDP will contract a National Consultant to undertake this assignment, who will work with the support from a National ABS Expert and with technical backstopping by an International Legal Consultant. REMA will supervise the consultant and will facilitate logistical requirement for the work, such as the organizing of field visits and workshops. The Consultant will directly report to the ABS Project Coordinator at REMA and UNDP Country Office focal point. A Technical Working Group to guide the assignment will be established, consisted of the ABS Focal Point in REMA; the legal advisor of REMA; legal advisors of the Ministry of Environment, Ministry of Health, Ministry of Agriculture and

Animal Resources, Rwanda Development Board, Ministry of Education; Ministry of trade and Industry focal point from the National Commission for Science and Technology; the ABS project manager of UNDP and other stakeholders as deemed necessary. All deliverables should be accepted and approved by the Technical Working Group, and cleared by the DG REMA.

6. Duty station

The assignment is home based (Kigali). The consultant may be required to travel to sites outside Kigali as appropriate. In that case he/she will be paid separate DSA.

7. Required expertise and experience

Academic Qualifications/Education:

- Bachelor's degree or higher level of education in law. Focus on intellectual law, environmental law, corporate law or international law will be an asset.

Experience:

- At least 5 years of experience practicing law with necessary lawyer certification
- At least 3 years of experience in drafting legal instruments in the context of Rwanda, preferably in the environment and natural resources area.
- Excellent writing and oral communication skills in English. Knowledge of French and Kinyarwanda will be an asset.
- A good understanding of the main challenges facing the implementation of the Nagoya Protocol and ABS regimes in Africa region; specific experience in Rwanda is an asset;
- Experience working in multi-disciplinary teams with national experts and other stakeholders from relevant national institutions;

Language skills:

- Excellent writing, editing, and oral communication skills in English is required. Knowledge of French and Kinyarwanda is an asset.

Competencies:

- Demonstrates practical knowledge of inter-disciplinary development issues;
- Consistently approaches work with energy and a positive, constructive attitude;
- Demonstrates strong oral and written communication skills;

8. Payment modality

The consultant will be paid the consultancy fee upon completion of the following deliverables.

20% upon the submission and acceptance by the NTAC of the gap analysis report (Deliverable 1), which will also serve as an inception report to the remaining tasks.

30% upon the submission and acceptance of the draft Biodiversity Law revision clauses (Deliverable 2) and validated final draft (Deliverable 3).

20% upon the submission and acceptance of the draft Ministerial Order (Deliverable 4) and validated final draft (Deliverable 5).

30% upon the submission and acceptance of the draft regulations (Deliverable 6) and validated final draft (Deliverable 7).

9. Application procedures

Qualified and interested candidates are hereby requested to apply. The application should contain the following:

- Personal CV or P11, indicating education background/professional qualifications, all past experience, as well as the contact details (email and telephone number) of the candidate and at least three (3) professional references;
- Brief description of why the individual considers him/herself as the most suitable for the assignment and a methodology, on how they will approach and complete the assignment;
- Financial proposal that indicates the all-inclusive fixed total contract price, supported by a breakdown of costs, to be provided by the UNDP procurement.

10. Evaluation criteria

The consultant will be evaluated against a combination of technical and financial criteria (combined scoring method). Maximum score is 100% out of which technical criteria equals 70% and financial criteria equals 30%. The technical evaluation will include the following:

Criteria	Weight	Max. point
Excellent proposed methodology for accomplishing the assignment	25	25
Bachelor's degree or higher level of education in law. Focus on intellectual law, environmental law, corporate law or international law will be an asset.	10	10
At least 5 years of experience practicing law with necessary lawyer certification	10	10
At least 3 years of experience in drafting legal instruments in the context of Rwanda, preferably in the environment and natural resources area.	30	30
A good understanding of the main challenges facing the implementation of the Nagoya Protocol and ABS regimes in Africa region; specific experience in Rwanda is an asset;	10	10
Experience working in multi-disciplinary teams with national experts and other stakeholders from relevant national institutions;	5	5
Excellent writing, editing, and oral communication skills in English knowledge of French and Kinyarwanda is an asset.	10	10
Total	100%	100

UNDP is committed to achieving workforce diversity in terms of gender, nationality and culture. Individuals from minority groups, indigenous groups and person with disabilities are equality encouraged to apply. All applicants will be treated with the strictest confidence.

Prepared by:

Signature _____

Name and Designation Reina Otsuka, Environmental Specialist

Date of Signing _____

Reviewed and Cleared by:

Signature _____

Name and Designation Madeleine Nyiratuza, Head of Unit, Strategic Growth Unit

Date of Signing _____

Approved by:

Signature _____

Name and Designation Stephen Rodrigues, Resident Representative

Date of Signing _____