

## Hypothetical Case for Exercises 1A and 1B

### General Facts

Bugania is a country in South Central Africa and shares similar ecosystems with two neighbouring countries to the east and west, Eastania and Westalia, respectively. While the three countries have economic partnership agreements between them, they are often seen as competitors in the area of external trade related to agricultural and natural products, on which their respective economies largely depend.

The taper plant, known as *obokun* in the local language, is common to the three countries, although the largest concentration is found in Eastania. However, the plant occurs largely in the areas considered the ancestral range of the local Burutu tribe, who are a semi-nomadic people indigenous to all three countries, in different concentrations but with the highest population in Westalia. Historically, the Burutu people have used the *obokun* plant for a variety of agricultural, medicinal and dietary purposes, including as a hunger suppressant.

Based on the traditional uses of *obokun*, researches were recently able to isolate a compound from the plant that prevents obesity. Initial tests have shown that it is without any foreseeable side effects and it is anticipated that annual sales from the resulting product could run into several billions of dollars. Several private-sector operators are currently interested in commercializing the compound, either as a pharmaceutical product or as a food supplement, along with other cosmetic applications. However, because of the complexity of the compound, it has been difficult to synthesize and it is envisaged that production will depend on raw extracts from the plant for several years to come.

Recent ecological studies have shown that the *obokun* plant has a very complex inter-relationship with other species and therefore plays a critical role in maintaining the balance of the ecosystem in the areas where it is found. Furthermore, the plant takes several years to reach useful maturity. However, aside from the traditional uses, there is a significant level of unauthorized collection currently going on in one of the neighbouring countries and, to a lesser degree, in Bugania.

Bugania has recently completed its draft bill and regulations on ABS, based on the African Model Law but consistent with the relevant international agreements, including the Convention on Biological Diversity. The relevant authority is about to send the bill and regulations to the Parliament for enactment into law. In this regard, Bugania is significantly ahead of its neighbours in the policy and legislative process. Eastania has no legislation at all or even any defined institutional arrangement to govern issues of genetic resources, while Westalia has an environmental management authority that has a mandate over genetic resources but no defined laws governing them. Each of the countries, to varying degrees and based on its specific situation, is interested in a number of objectives, including the following:

- boosting the infrastructure of its local research capacity
- protecting and conserving its fragile ecosystems
- protecting the rights and interests of the local communities
- boosting food security
- stopping illegal collection or harvesting of resources
- making money from the resources, etc.

Each of the countries is also concerned about what effect internal arrangements will have on its ability to reap these benefits in light of the possible situation in the other countries.



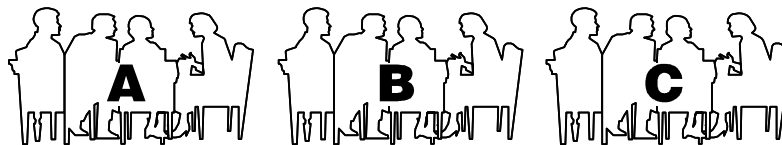
## **Exercise 1A.**

### **Identifying Objectives, Priorities and Common Approaches**

#### **(group work)**

*The aim of this exercise is to identify key issues and factors in Access and how these issues interact with the process of formulating policy and legislation on ABS.*

1. Form three groups. Each group elects a rapporteur. (5 minutes)



*Each of the three groups represents one of the three different countries in the hypothetical case. Each will decide on its objectives, priorities and approaches in-country. The three groups meet and debate issues to explore ways of arriving at common approaches that take into account their different concerns and needs.*

#### **Phase 1. Group work (1 hour 15 minutes)**

2. All groups briefly read handouts 1A.4 and 1A.5 and discuss the hypothetical case.
3. The groups read the questions carefully and use the worksheets (Handout 1A.7) to note down their responses as follows:
  - I. Make an indicative list of issues for consideration:
    - a) identify key authorities
    - b) identify key stakeholders and three major interests
    - c) identify the national priorities and objectives vis-à-vis genetic resources
    - d) list any other considerations
  - II. Make an indicative guide:
    - a) identify the best approach/process to start discussions
    - b) identify priority issues common to the parties and an approach for addressing them in a harmonious fashion
    - c) identify major areas of differences and how they can be addressed in a common way or within individual countries
    - d) list any other considerations
4. The rapporteurs compile their group's responses on a flipchart to present to the audience.

**Phase 2. Presentation and discussion (60 minutes)**

5. The rapporteurs present the results of their group's discussions to the audience. Each rapporteur has five minutes to report. After each presentation the trainer allows a two- to three-minute discussion. (30 minutes)
6. After the three groups' presentations, invite a few volunteers to share the major lessons learned during this exercise. (20 minutes)
7. Finally, the trainer distributes handout 1A.8 to the participants, analyses practical considerations for this exercise, provides feedback on the context of the presentations and closes the session. (10 minutes)

## Exercise 1A — Worksheet 1

### I. List of issues for consideration

a) Key authorities	
b) Stakeholders/three major interests	
c) National priorities and objectives	
d) Other considerations	



## Exercise 1A — Worksheet 2

### II. Indicative guide

a) identify best approach/process to start discussions	
b) identify priority issues common to the parties	approach to address issues harmoniously
c) major areas of differences	how to address them in a common way/within individual countries
d) Other considerations	

## Practical Considerations for Exercise 1A

(to be distributed after the Exercise has been completed)

*After doing this exercise, participants are able identify key issues and factors in access to and benefit sharing of genetic resources and how these issues interact with the process of formulating policy and legislation on ABS.*

### General issues

There are some general issues that this exercise raises:

- how to set up ABS-enabling access while, at the same time, protecting the rights, interests and traditional knowledge of local communities and establishing a benefit-sharing mechanism (both monetary and non-monetary)
- how to deal with competition between countries—maybe promoting a regional approach through regional agreements on ABS
- how to balance sovereign rights and regional obligations among countries
- how to balance genetic erosion and conservation of ecosystems on the one hand and commercialization of natural products on the other.

This exercise lays the foundation for Exercises 1B and 1C.

### Specific Issues

One of the ultimate goals of Exercise 1A is for the participants to identify key issues and stakeholders in ABS.

At the end of the exercise, the participants should demonstrate the following abilities:

(a) to identify the key authorities, stakeholders and interests of each country

***Key authorities and their interests:***

- ministries of environment and national environmental authorities—their interest would primarily be ensuring environmental conservation
- ministries of commerce—their interest would be commercialization and benefit sharing
- ministries of culture—their interest would be the preservation of the cultures of the local communities
- national intellectual property authorities—their interests would be related to protection of the traditional knowledge associated with the local communities in regard to the uses of the plant
- national parliaments—their interests being development/enactment of relevant legislation



***Stakeholders and their interests:***

- scientists in national agricultural research centres, universities, etc.—with interests in research on the plant and product outcomes
- representatives local communities—their interests being to ensure preservation of the cultures and rights of the local communities
- legal communities—their interests being in the development of legislation

(a) to identify the national priorities and objectives of each country, based on the genetic resource available:

- Bugania—enactment of ABS legislation
- Eastalia—enacting ABS legislation and defining institutional arrangements to govern access and benefit sharing with the interim priority being to apply existing law to regulate ABS
- Westalia—enabling the environmental management authority to exercise its mandate in regulating ABS

(b) to identify the best approach/process to start negotiations/discussions among the three countries:

The best approach would involve the three countries holding inter-governmental consultations/discussions with each other, outlining their interests, rights and obligations

(c) to identify priority issues common to all parties and approach for addressing them in a harmonious fashion.

***Priority issues:***

- boosting the infrastructure of their local research capacity
- protecting and conserving their fragile ecosystems
- protecting the rights and interests of the local communities
- boosting food security
- stopping illegal collection or harvesting of resources
- commercialization of the products developed from the plant

The approach in addressing these priorities is that outlined in (d) above.

(d) to identify major areas of differences and how they can be addressed in a common way or within individual countries.

The major areas of differences are based on the priorities and objectives of each country, as outlined in (b) above. The process of addressing these in a common way would largely be based on the outcome of the intergovernmental consultative process suggested in (c) above.