Summary of Overheads

1.1

Review of Regional Policy Instruments, Developments and Trends : Sub-Saharan Africa

1.2

Objectives of the Day

1. Present the objectives and schedule for the day's activities
2. Review policy frameworks in Sub-Saharan Africa (and individual countries)
3. Identify regional genetic resources and crop-specific networks
4. Discuss regional initiatives

1.3

Schedule of the Day

08:30 – 09:00	Opening of the Day's Activities
09:00 – 09:30	Session 1. Regional Policy Instruments, Developments and Trends in Sub-Saharan Africa
09:30 – 10:30	Session 1A. Identifying Objectives, Priorities and Common Approaches (Exercise 1A)
	Tea/Coffee Break
10:45 – 12:15	Session 1A. (continued)
12:15 – 13:00	Session 1B. Developing a Draft Segment of an ABS Regime
	Lunch
14:00 – 15:30	Session 1B. (continued)
	Tea/Coffee Break
15:45 – 17:00	Session 1C. Reflection on Biosafety
17:15 – 17:45	Evaluation of the Workshop, Final Remarks, Closing and Delivery of Certificates

1.4

Review of Regional Policy Instruments, Developments and Trends

Sub-Saharan Africa

1.5

Traditional African Concepts of ABS

- The idea of private ownership of natural resources or knowledge is not a common concept to many local African communities
- A defining characteristic of local African societies is the communal nature of the use and management of genetic (and biological) resources
- Ownership is not absolute but linked to usage and management of resources, based on need and equity

1.6

Legal Frameworks for Access to Genetic Resources in Sub-Saharan Africa (1)

A. Legal structures:

- ❖ At the national level, the most common approach to ABS regulation and policy is usually the adaptation of existing structures and legal frameworks on an *ad hoc*, sectoral basis

B. Institutional structures:

Largely fragmented along sectoral and geographical lines

- ❖ sectoral fragmentation creates problems regarding overlap of mandates
- ❖ frequently results in weak or non-existent capacity, 'turf mentality' and contradictory policy goals

1.7

Legal Frameworks for Access to Genetic Resources in Sub-Saharan Africa(2)

C. Rationale underlying current policy for regimes regulating access can be identified

- ➔ **in countries where there is no coherent government policy**
- ➔ **in countries where government activities are informed by a focused policy rationale**

Common amongst African countries is that they all consider elements of 'poverty alleviation', development and conservation in their policies. The weighting of priorities seems to be conditioned by the particular situation of the country.

1.8

Legal Frameworks for Access to Genetic Resources in Sub-Saharan Africa(3)

D. Intellectual Property Rights

- ❖ **Issues regarding intellectual property rights are linked to access to genetic resources**
- ❖ **Practically all African countries are members of the WTO and are obligated to implement minimum standards for IPRs under TRIPS**
- ❖ **The majority of the countries have implemented their obligations under TRIPS by establishing IPR legislation, although TRIPS does not require this until to 2005 for these countries**

1.9

Regional Initiatives and Approaches

1. **African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources**
2. **African Model Law on Safety in Biotechnology**
3. **The New Partnership for Africa's Development (NEPAD)**
4. **The Revised African Convention for the Protection of Nature and Natural Resources**

1.10

African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources

- Adopted in Ouagadougou in 1998
- Objective: to ensure the conservation, evaluation and sustainable use of biological resources to improve their diversity as a means of sustaining life support systems
- As a central principle it holds that patents on life are immoral and go against the values of African citizens and should therefore be outlawed
- Questions have been raised about compatibility with UPOV and TRIPS

1.11

African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources Cont'd

Was formulated *inter alia* to

- Recognize, protect and support the inalienable rights of local communities
- Recognize and protect the rights of breeders over varieties developed by them
- Provide a mutually acceptable system of access to biological resources, community knowledge, technologies and practices subject to the prior informed consent (PIC) of the State and the local communities concerned
- Provide and promote appropriate mechanisms for the enforcement of the rights of local communities
- Ensure that genetic resources are utilized in a sustainable and equitable manner

1.12

African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources Cont'd

In terms of scope, the AU Model Law applies to

- Biological resources both *in situ* and *ex situ*
- Derivatives of the biological resources
- Community knowledge, innovations, technologies and practices
- Local and indigenous farming communities, farmers and plant breeders

Several countries have looked at the provisions of the AU Model Law to draft their national legislation on the relevant issue

1.13

African Model Law on Safety in Biotechnology

- Follows in the footsteps of the earlier OAU Model Law on access to genetic resources and community rights
- Was created for member States to equip themselves with human and institutional capacity to deal with biosafety issues within the framework and implementation of the Cartagena Protocol on Biosafety
- In terms of scope it applies to
  - import
  - contained use
  - release or placement on the market of any GMO or products from GMOs

1.14

African Model Law on Safety in Biotechnology Cont'd

- The Model Law provides that without the approval of the competent national authority (CNA) no person shall import, make contained use of, release or place on the market a GMO or products from GMOs
- Approvals require monitoring and evaluation of risks and can not be issued until the CNA determines that the GMO or products of GMOs pose 'no risk to the environment, biological diversity or health'
- In addition, no approval is to be given unless the activity
  (a) benefits the country
  (b) contributes to sustainable development
  (c) does not have adverse socio-economic effects
  (d) is in 'accord with ethical values and concerns of communities and does not undermine traditional knowledge and technologies'

1.15

African Model Law on Safety in Biotechnology Cont'd

- In consonance with the Cartagena Protocol, the Model Law incorporates the precautionary principle
- However, it contains stipulations as well as additional provisions beyond the ambit of the Protocol
- The model law uses the term 'genetically modified organism' (GMO) instead of 'living modified organism' (LMO) and extends its scope to products of GMOs, while the Protocol covers LMOs only

1.16

The New Partnership for Africa's Development (NEPAD)

- Launched during the AU Summit in Lusaka, Zambia, in July 2001

Recognizes

☒ Africa's biodiversity as an important global resource in combating environmental degradation

☒ The urgent need to achieve food security in Africa

☒ That the institutional environment for agriculture affects the sector's productivity and performance

- Currently NEPAD is working closely with UNEP Regional Office for Africa and AMCEN to implement the environmental component of its program

1.17

The Revised African Convention for the Protection of Nature and Natural Resources

- First region-wide agreement, known as the Algiers Convention, approved in Algiers in September 1968, came into force in June 1969
- At the time of its adoption was largely conservation-oriented, had token provisions on sustainable use and none on issues such as benefit sharing
- Since the early eighties, has undergone a review process to update and address the region's needs
- The revised text was adopted on 11 July 2003 in Maputo, Mozambique, and will enter into force once 15 African states ratify it and provide for an independent secretariat
- Scope includes genetic diversity—Art. 9

1.18

Sub-Regional and Regional Organizations of Relevance to Genetic Resources

- The West and Central African Council for Agricultural Research and Development (CORAF/WECARD)
  www.coraf.org
- Association for Strengthening Agricultural Research in Eastern and Central Africa (ASARECA)
  www.asareca.org
- Southern African Centre for Cooperation in Agricultural and Natural Resources Research and Training (SACCAR)
  www.info.bw/saccar
- The Forum for Agricultural Research in Africa (FARA)
  www.fara-africa.org

1.19

Regional Organizations of Relevance to Genetic Resources

- African Regional Industrial Property Organisation (ARIPO)
  www.aripo.wipo.net
- African Intellectual Property Organisation (OAPI)
  www.oapi.wipo.net
- Co-operation between ARIPO and OAPI

1.20

Networks for Genetic Resources

- SADC Plant Genetic Resources Centre (SPGRC)
  www.ngb.se/sadc/spgrc.html
- Genetic Resources Network for West and Central Africa (GRENEWECA)
  www.ipgri.cgiar.org/regions/ssa/networking/greneweca.html
- East African Plant Genetic Resources Network (EAPGREN)
  www.asareca.org/Networks/EAPGRENDOC.htm

1.21

Other Initiatives

- Biosciences Facility for Eastern and Central Africa
- African Agricultural Technology Foundation (AATF)