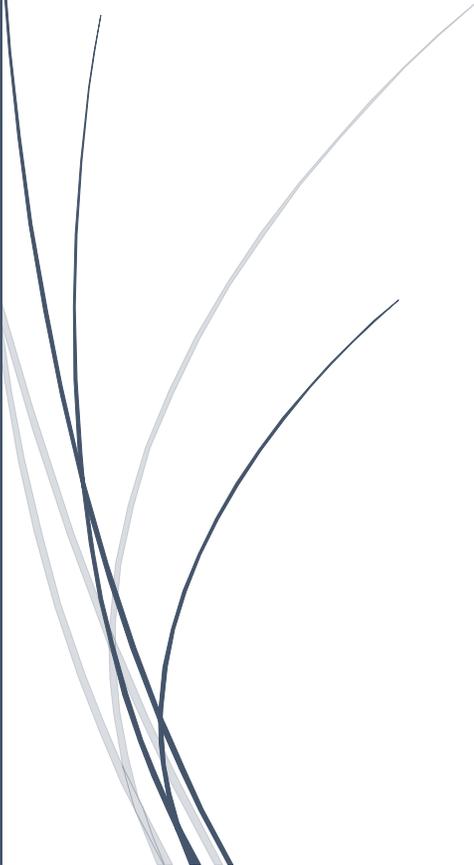




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Code of Conduct

Nagoya Protocol



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BIODIVERSITY AND PROTECTED AREAS EXPERT

Code of Conduct to Access Genetic Resources and Benefits Sharing in Jordan

Overview

The Code of Conduct document was prepared to govern ethical responsibilities of the various stakeholders participated in implementing the Nagoya protocol in Jordan, including the national focal point, national competent authority, technical committee, provider, user, local communities and other stakeholders. In addition, it aims to facilitate appropriate access to genetic resources and get the benefits of local community knowledge, to enable sharing of benefits arising from their utilization in Jordan, which in turn will contribute to the conservation and sustainable utilization of biodiversity of Jordan.

The code is a voluntary tool, and not a legally binding document, but it has to be respected, abide and implemented in harmony with:

- National bylaw for access and benefits sharing in Jordan
- The Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from the utilization to the convention on biological diversity
- The Convention on Biological Diversity articles.

Objectives

This code was developed to achieve the following objectives

1. Ensure a sustainable conservation of genetic resources within their natural habitats, and evade any loss, which might be caused by excessive or uncontrolled access to genetic resources.
2. Safeguard all forms of access to genetic resources and local community knowledge according to national bylaw and regulations in Jordan, through a standardized measures between providers and users of genetic resources, and the associated local community knowledge.
3. Establish a national recognition to the rights and needs of local communities, and those who manage genetic resources.

Nature of the Code

1. The Code is voluntary.
2. The code recognizes that local communities have sovereign rights over their knowledge on genetic resources within their territories.
3. The Code is addressed primarily to all stakeholders involved in implementing the Nagoya protocol.
4. The provisions of the Code should be implemented through collaborative action by governmental entities which represent the National Competent

Authority, Technical Committee, appropriate organizations and professional societies, users and providers of genetic resources.

5. The Code provides a set of general principles which the stakeholders of Nagoya protocol in Jordan may wish to use in developing their national regulations, or formulating bilateral agreements on the utilization of genetic resources.

Code Principles

Principle One: Conservation of Genetic Resources

Access to genetic resources "In Situ or Ex Situ", whether it derived from plant, animal, or micro-organisms must be on the basis of bylaw, prior informed consent and mutually agreed terms, including benefit sharing to ensure sustainable access to genetic resources and to avoid its permanent loss caused by excessive or uncontrolled collection.

Any collection of genetic resources shall be commenced in full respect to national laws and regulations.

Threatened, rare and endemic species shall be handled with care, especially if any access was requested.

Principle Two: Commitments for an Effective Implementation

All partner organizations involved in the access and benefits sharing of genetic resources and traditional knowledge associate with, shall develop appropriate internal mechanisms and procedures to implement the protocol successfully.

Adequate resources and responsibilities shall be assigned by all stakeholders of Nagoya protocol to guarantee compliance with legal requirements, and carry out reliable, effective and appropriate monitoring and evaluation scheme.

National Competent Authority and the technical committee which were formulated according to the bylaw should periodically review the relevance and effectiveness of this Code. The Code should be considered a dynamic text that may be brought up-to-date as required, to take into account technical, economic, social, ethical, ecological and legal developments and constraints.

Companies working with new ingredients from biodiversity will need to consider ABS in almost every stage of the supply chain

Principle Three: Respect and Protect Local Communities Knowledge

Local communities have their sovereign rights over their knowledge, which is associated to access to genetic resources. Thus, all intellectual property, knowledge, cultural diversity and heritage shall be respected, recognized, protected and documented through legal means.

All decisions regarding the use of traditional knowledge associated with genetic resources shall be performed in participatory processes, which are inclusive of local community rights and give equal voice regardless of gender, ethnicity, ability, age, religion, or socioeconomic status.

Person's and\ or institutions making access should demonstrate a sense of gratitude towards local communities, especially if use is made of local knowledge on the characteristics and value of genetic resource. They should respond to their requests for information, genetic resource or assistance, to the extent feasible.

Local communities have their rights to protect their knowledge through the prohibition of any person and\ or institution who does not belong to their communities, from collecting or taking genetic resources from their localities without having the necessary permit; and enquire any person and\ or institution who does not belong to their communities and who is collecting or taking genetic resources from their localities, to show access permit, and immediately notify the responsible parties within their locality.

Local community's knowledge is protected even if it was not documented

Principle Four: Implement and Promote a Responsible Approach

Access to genetic resources and local community's knowledge shall not be improperly restricted, except if the access did not comply with the national bylaw and its guidelines.

Any approval or denial of access by the technical committee shall be respected and adopted by the National Competent Authority.

National Competent Authority shall update on a regular base the clearing house mechanism with information on access to any genetic resources or community knowledge and benefit sharing, permissions and prohibition.

The Competent National Authority and according to the power of the bylaw shall ensure a fair and equitable sharing of benefits arising from the utilization of genetic resources and the local community's knowledge. Benefits is represented by supporting infrastructure development, small and medium enterprises, education, capacity building and transfer of technologies with a consideration to the gender perspectives.

Access to genetic resources and community knowledge shall be subject to prior informed consent and mutually agreed terms of the National Competent Authority, users and concerned local community.

The National Competent Authority of Jordan has the sovereign right, and accepts the responsibility, to establish and implement national policies for the conservation and use of their genetic resources.

Principle Five: Winning the Trust of Genetic Resources Stakeholders

All stakeholders of access to genetic resources and community knowledge shall integrate and act in good faith.

Users of genetic resources and community knowledge should facilitate access to new, improved varieties and other products on mutually agreed terms, support for research of relevance to conservation and utilization of genetic resources, including community-based, conventional and transfer of appropriate technologies, as well as conservation strategies, for both ex situ and in situ conservation; and perform the necessary training to enhance community skills in genetic resources conservation, evaluation, development, and use.

Users and providers shall respect the laws of Jordan, particularly those related to access to genetic resources and traditional knowledge association with. In addition, they shall respect the cultural practices, traditional values and customs of local communities.

Any person designated according to bylaw to perform a certain activity in relation to access to genetic resources and traditional knowledge and sharing of benefits arising from their utilization shall perform all activities with great diligence and shall not commit any fraudulent act that adversely affects the interests of the government of Jordan and/or the community.

Bio cultural Community Protocol (BCP) in Jordan

The bylaw of access and benefits sharing is in the process of adoption by the Government of Jordan, in the time of writing this document, which is considered critical as it will mark the impacts on the local communities, and their involvement with their traditional knowledge on genetic resources. A step ahead is to enhance the negotiation skills of the Competent National Authority and local communities in order to regulate the way traditional knowledge (TK) and genetic resources (GR) are accessed and how the benefits arising from their use are shared.

Bio-cultural Protocol and CBD

Article 1 of the Convention on Biological Diversity (CBD) lists the three objectives of the Convention. In addition, Article 8(j) and Article 10(c) of the Nagoya protocol calls parties to "*protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.*" Thus, it acknowledges the relationship between "in situ conservation" of biodiversity and the "traditional lifestyles" of indigenous peoples and local communities (ILCs). These lifestyles are established through the traditional knowledge, which is composed of knowledge, innovations and practices of ILCs. Moreover, Article 8(j) states that any use of traditional knowledge should be based on the approval and involvement of the holders of such knowledge and that they should be entitled to a fair and equitable share of the benefits arising from the utilization of their knowledge.

Therefore, it is expected that any user of genetic resources to comply with a range of obligations in order to gain access to genetic resources and associated traditional knowledge, which are the 1) Mutually Agreed Terms (MAT), Prior and Informed Consent (PIC) and the 3) Benefit-Sharing Agreements

Bio-cultural Communities

Local communities in Jordan are diverse, yet share certain harmonies such as lifestyles and their connection with nature. This has created proprietary rights, but more to a bio-cultural relationship supported centuries of conservation of biological diversity in different localities in Jordan. The bio-cultural community protocol is developed to set out normal values, rights and rules about local community's bio-cultural heritage in Jordan based on existing information and literature.

Several bio-cultural case studies could be established in Jordan, but as majors are the medicinal plants usage by traditional healers, and livestock breeders.

Both groups are considered important especially that the traditional healers are part of Jordan's culture since they hold traditional knowledge about the uses of certain plants, and as a result, they specifically set out to conserve the plants from which they sustainably harvested or purchase. In this case, traditional knowledge leads directly to conservation.

The livestock breeders are also considered an important group since they deal with breed's diversity especially that they have raised their animals on local resources, and contributed to the conservation of wild biodiversity of flora and fauna, habitats, ecosystems and landscapes. Generation after generation, they have developed a cultured traditional knowledge that have ensured a long-term sustainability of their production systems and natural environment.

For any case study to be developed, it has to survey a specific local community which holds the traditional knowledge in order to engage them in the implementation of the Nagoya protocol. In addition, once the bylaw is adopted by the government of Jordan, then the National Competent Authority shall initiate a program to raise the knowledge and awareness of the targeted groups of the value of their traditional breeds and resources and of their knowledge in managing these. Identifying problems and constraints facing each community is necessary and identify the people who are in the best position to tackle these challenges is also critical at this stage, since it will lead to take action by the local community to save their heritage. It's important to note that any local community holds rich traditional knowledge which is a result of the know-how, skills, innovations and practices embodied in the traditional lifestyle. It is also important to document all actions followed by the targeted communities to enhance genetic resources structure of their breeds.

The declaration of rights shall be developed with solid principles of

1. Genetic resources forming the diverse species and ecosystems have the rights to survive, and it's the role of local communities to play the essential role in their survival.
2. Genetic resources providers hold rights over their knowledge, and the genetic resources they provide for food, agriculture and other purposes.
3. Healthy ecosystems contribute significantly to sustainable use of traditional knowledge and in consequences to better livelihood of local communities.

The rights of the targeted groups could be represented by various dimensions including but not limited to:

1. Rights to receive an appropriate training, awareness and capacity building programs.
2. Rights to make decisions on their genetic resources and according to the bylaw of access and benefits sharing.

3. Rights to be part of the negotiation of Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT)
4. Rights to participate in the implementation processes on animal and plants genetic resources for food, agriculture and other purposes.
5. Rights to effectively access information on issues related to their local products yielded from their genetic resources usage.

Traditional Knowledge as a Service and its Impact on Local Communities

The interactions between communities and their land, and culture provides commodities to traditional knowledge and it supports local community's ways of life. These commodities entitles the conversion of the cultural relationships that underlie it into relationships mediated by the market. However, an underestimation of valuing the traditional knowledge has been performed over the previous years. Therefore, Article 8(j) highlights the need to safeguard the local community's ways of life and to promote the bio-spiritual values that have ensured conservation and sustainable use of biological diversity.

Four voluntary guidelines and management tools were developed in order to understand and fulfil the requirements of users to genetic resources and traditional knowledge associated with. These guidelines share the CBD broad intent, to promote the conservation and sustainable use of biodiversity with an emphasis on protecting local communities whose lifestyles have preserved their local biodiversity. The guidelines are represented by:

1. Akwé: Kon Voluntary Guidelines was adopted in COP 5 in 2000, aiming to conduct cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities.
2. Bonn Guidelines on access to genetic resources and fair and equitable sharing of benefits arising out of their utilization, adopted at COP 6 in 2002 as a way of implementing Article 8(j)
3. The Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity, adopted at COP 7 in 2004
4. ABS Management Tool, developed by the International Institute for Sustainable Development among others and published in 2007.

Bio-Cultural Protocols (BCPs) Development

The bio-cultural protocol assists communities as it promotes bio-cultural and legal empowerment by providing local communities in Jordan with the opportunity to engage in a process of reflection and learning. In addition, it allows them to open a dialogue about various elements of their ways of life,

including their landscape, genetic resources, traditional knowledge, culture, bylaw, and laws relating to the management of natural resources, among others. Thus, it facilitates a community-wide discussion about their development plans and an assessment of common challenges. With input from community-based organizations and NGOs with legal expertise, communities are also able to learn about a variety of rights under international and national law that support their development plans and can help them to overcome their challenges.

The process of developing BCPs include collecting answers to the following questions:

1. Identification of the community's cultural and ecological norms as well as traditional knowledge that ensure conservation of biological diversity
2. Knowledge sharing mechanisms among local communities
3. Challenges at the local level
4. How the bylaw of access and benefits sharing will support local communities to promote their cultural ways of life
5. Opportunities available for local communities and the scope of laws and regulations which support them to utilize their knowledge

Article 8(j), stated that the traditional knowledge is a composite of local communities knowledge, innovations and practices. The communities whose BCPs are referenced above confirmed this and made a distinction between different types of knowledge, including ethno-veterinary knowledge, breeding practices, ecological knowledge, and knowledge about the use of plants to heal people.

Developing a community protocol is an inclusive process that enables local participation and ownership, involves accessible approaches and resources, is reflective, constructive and representative of multiple voices, and leads to a visible influence on decision-making. The use of innovative participatory approaches and tools empowers communities not only to take ownership over existing legal and policy frameworks and processes such as protection of traditional knowledge and folklore, access and benefit sharing, protected areas, and payment for ecosystem services, but also to enable bottom-up law-making and the realization of their right to self-determination.

As such, community protocols are flexible instruments and each will be unique and tailored to the local context. Communities should focus on the types on information that would be most appropriate to include and how they want to document and communicate them. Examples for communication mediums include written documents, videos, photographs, maps, cultural performances, community radio or television programs and so on. Communities may wish to produce multiple versions of their documented protocols for different purposes.

For example, a community may wish to hold a cultural performance and radio series for itself, compile a written document with maps and photographs for the government and private sector, and produce a short film or slideshow to raise public awareness.

Every community protocol is distinct due to the unique biological and cultural diversity of the people that develop them. However, they tend to contain a variety of issues and themes, including details about:

- A definition of the group and its leadership and decision-making processes;
- Community-based natural resource management systems, knowledge, innovations, and practices (i.e. in situ conservation and sustainable use) of indigenous flora and fauna, and details of those natural resources;
- Ways of life, including the links between culture, spirituality, and customary laws and values;
- Interactions with other communities regarding the management of natural resources and sharing of traditional knowledge, innovations, and practices;
- Procedures relating to free, prior and informed consent to any intended activities on their territories;
- Local challenges and how they are addressing or would like to address them;
- Aspirations development plans;
- Rights, responsibilities, and duties according to customary, national, and international law; and
- Calls to various stakeholders to engage in constructive dialogue with them according to their respective rights, responsibilities, and duties.

The development of a community protocol is first and foremost a community process, but can invite external support as required for developing local capacities in documentation techniques, legal empowerment, and facilitating meetings with government, among others. Once developed, protocols require strong and continued support from community infrastructure, including its local institutions, CBOs, NGOs, and lawyers, in order to enact long-term social and political change.