

**IN THE SECOND SESSION OF THE SEVENTH PARLIAMENT
OF THE FOURTH REPUBLIC OF GHANA**

**REPORT OF THE PARLIAMENTARY SELECT COMMITTEE ON
ENVIRONMENT, SCIENCE AND TECHNOLOGY**

ON THE

**NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES
AND EQUITABLE SHARING OF BENEFITS ARISING FROM
THEIR UTILISATION TO THE CONVENTION ON BIOLOGICAL
DIVERSITY**

MARCH, 2018

REPORT OF THE PARLIAMENTARY SELECT COMMITTEE ON ENVIRONMENT SCIENCE AND TECHNOLOGY ON THE NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILISATION TO THE CONVENTION ON BIOLOGICAL DIVERSITY

1.0 INTRODUCTION

The Hon. Deputy Minister for Environment, Science, Technology and Innovation, Ms. Patricia Appiagyei on behalf of the Minister for Environment, Science, Technology and Innovation Prof. Yaw Frimpong Boateng, on 11th July, 2017, laid before the House the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to Convention on Biological Diversity.

Pursuant to Article 75 (2) (b) of the 1992 Constitution and Standing Order 185, Mr. Speaker referred the protocol to the Committee on Environment, Science and Technology for consideration and report to the House.

2.0 ACKNOWLEDGEMENT

The Committee met with the Minister for Environment, Science, Technology and Innovation, Prof. Frimpong Boateng and Officials from his Ministry and the Attorney Generals Department

The Committee is grateful to all who participated in the deliberation for the elucidation provided on the convention.

3.0 REFERENCE DOCUMENTS

The Committee referred to the following documents during deliberations;

- a. The 1992 Constitution of Ghana
- b. The Standing Orders of the Parliament of Ghana

- c. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to Convention on Biological Diversity.

4.0 BACKGROUND INFORMATION

Ghana is deemed to be endowed with a rich stock of biological diversity. One of the biggest challenges of this century is however the constant loss of biodiversity. Data gathered in 2013 on the biodiversity in Ghana showed that it is comprised of 2,974 indigenous plant species. 43 were noted to be endemic and 253 introduced plant species. The report also showed that 34 plants, 17 mammals, 10 birds, 5 reptiles, 103 higher plants and 1 butterfly species were threatened.

To ensure the preservation of these species, Ghana signed the Convention on Biological Diversity on 12th June, 1992 and ratified same on 27th November, 1994. This was followed by the establishment of the National Biosafety Authority and the Biodiversity/Biosafety Unit at the Ministry of Environment, Science, Technology and Innovation (MESTI) to implement the requirements under the Convention.

The Country is however yet to realise fully the benefits under the Convention because it is yet to draw up a comprehensive national policy on biodiversity to drive the necessary interventions that would facilitate the sustainable management of the biological resources to the benefit of the population.

In 2011, Ghana passed the Biosafety Act 2011 (Act 831) to satisfy the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety

However, Ghana is yet to ratify the other supplementary protocol relating to the Convention:

1. The Nagoya Protocol on Access to Genetic Resources and the fair and equitable sharing from the utilization to the Convention on Biological Diversity.

Ratification of the protocol would ensure the development of key interventions such as the National Policy on Domestication of Operational Protocols of the Convention on Biological Diversity. It will also grant Ghana access to resources and other forms of support from the Convention on Biological Diversity Secretariat and other multilateral sources such as the Global Environment Facility to implement programmes that would enhance biodiversity conservation and management in the country.

5.0 FINANCIAL IMPLICATIONS

The ratification and subsequent implementation of the provisions under the Protocol will require additional human and financial support from government. The existing implementing Agencies under the various Ministries will continue to implement the provisions of the Protocol within the framework of their existing mandates based on regular budgetary allocations or development assistance from our Development Partners.

Extra funds would however be needed to scale up communication and additional requirements under the protocol.

6.0 PROVISIONS UNDER THE PROTOCOL

The Protocol is made up of thirty six (36) Articles. The Articles are captured under the following headings;

- Article one (1) – Objectives of the Protocol
- Article Two (2) – Definition of terms under the Protocol
- Article Three (3) - Scope of the Protocol
- Article Four(4) - Relationship with International Agreements and Instruments
- Article Five (5) - Fair and equitable benefit sharing
- Article Six (6) - Access to genetic resources

- Article Seven (7)- Access to Traditional Knowledge Associated with Genetic Resources
- Article Eight (8) - Special Considerations
- Article Nine (9) - Contribution to Conservation and Sustainable Use
- Article Ten (10) - Global Multilateral Benefit-Sharing Mechanism
- Article Eleven (11) - Transboundary Cooperation
- Article Twelve (12) - Traditional Knowledge Associated with Genetic Resources
- Article Thirteen (13) - National Focal Points and Competent National Authorities
- Article Fourteen (14) - The Access and Benefits-Sharing Clearing-Houses and Information-Sharing
- Article Fifteen (15) - Compliance with Domestic Legislation or Regulatory Requirements on Access and Benefit-Sharing
- Article Sixteen (16) - Compliance with Domestic Legislation or Regulatory Requirements on Access and Benefit-Sharing for Traditional Knowledge Associated with Genetic Resources
- Article Seventeen (17)- Monitoring the Utilization of Genetic Resources
- Article Eighteen (18) - Compliance to Mutually Agreed Terms
- Article Nineteen (19) - Model Contractual Clause
- Article Twenty (20) - Codes of Conduct, Guidelines and Best Practices and/or Standards
- Article Twenty One (21) - Awareness Raising
- Article Twenty Two (22) - Capacity

- Article Twenty Three (23)- Technology Transfer, Collaboration and Cooperation
- Article Twenty Four (24) - Non-Parties
- Article Twenty Five (25) - Financial Mechanism and Resources
- Article Twenty Six (26) - Conference of the Parties Serving as the Meeting of the Parties to the Protocol
- Article Twenty Seven (27) - Subsidiary Bodies
- Article Twenty Eight (28) - Secretariat
- Article Twenty Nine (29) - Monitoring and Reporting
- Article Thirty (30) - Procedures and Mechanisms to Promote Compliance with this Protocol
- Article Thirty One (31) - Assessment and Review
- Article Thirty Two (32) - Signature
- Article Thirty Three (33) - Entry into Force
- Article Thirty Four (34) - Reservations
- Article Thirty Five (35) - Withdrawal
- Article Thirty Six (36) - Authentic

7.0 **OBSERVATIONS**

The following among others will be the benefits under the convention:

7.1 **REQUIREMENTS UNDER THE CONVENTION ON BIODIVERSITY**

The Committee was informed that the obligations under the Convention on Biodiversity ratified by this House in 1994 include the preparation of national policies and strategies for the preservation of biodiversity as well as the identification and monitoring of biodiversity through financial benefits from the Nagoya Protocol Implementation Fund. Ghana has however not been able to benefit from the Fund because it

is yet to ratify the Nagoya Protocol on Access to Genetic Resources and the fair and equitable sharing from the utilization to the Convention on Biological Diversity.

The ratification of the Protocol will lead to the enactment of policies or laws that would regulate the use of biodiversity in Ghana. Currently, Ghana has developed a Biodiversity Action Plan but its launch is awaiting the adoption of the Nagoya Protocol by the House.

The Committee urges the Ministry of Environment, Science, Technology and Innovation to work assiduously to bring the necessary policies or laws to the House for passage to ensure that Ghana benefits from the Protocol.

7.2 BENEFITS UNDER THE NAGOYA PROTOCOL

The Committee noted that the ratification of the Protocol will lead to monetary and non-monetary benefits including collection of fees for samples gathered, milestone payments, payment of royalties, license fees in case of commercialisation, research funding, joint ownership of relevant intellectual property rights, sharing of research and development results and strengthening of capacity. The benefits would assist in the preservation and protection of Ghana's biodiversity and establish a clearer and transparent legal regime for both the provider and users of the genetic resources.

The Committee considers the benefits very laudable and encourages the Ministry of Environment, Science, Technology and Innovation to ensure that Ghana benefits fully from the Protocol.

7.3 PROTECTION OF BIOLOGICAL DIVERSITY

It was also realised that the ratification will lead to the establishment of a system of co-operation among contracting states and that will ensure that intellectual property of plants and animals are greatly protected.

All traditional knowledge of our biologicals would also be preserved through registration. There would be education of communities to be aware of the genetic resources in their environment as well as the benefits to be derived from these resources.

Monitoring structures would further be created to ensure that contracting states abide by laws under the protocol and our biologicals are protected or preserved. Monitoring reports would be sent to the Conference of Parties intermittently for review to ensure that the right measures are in place to protect our biologicals.

The Committee recommends that the Ministry of Environment, Science, Technology and Innovations should ensure that necessary inventory of our biological resources is carried out to prevent them from being genetically modified by other countries.

7.4 **ENTRY INTO FORCE**

The Protocol is expected to enter into force nineteen (19) days after deposit of the fiftieth (50th) instrument accepted, approved and ratified by a State or regional economic integration organisations that are parties to the Convention.

Currently 196 member countries have acceded to the Convention on Biological Diversity and 105 others have ratified, accepted or approved the Nagoya Protocol on Access to Genetic Resources and the fair and equitable sharing from the utilization to the Convention on Biological Diversity.

Acceptance and adoption of the Protocol by the Parliament of Ghana would bring the number of states that have acceded to the Protocol to 106. In Africa, however, only 33 countries have signed onto the Protocol.

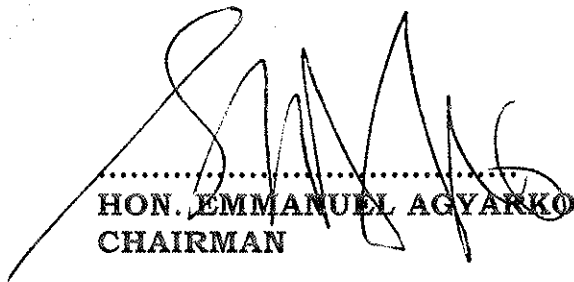
The Committee recommends that the Protocol should be deposited at the Secretariat of the convention immediately it is approved to enable Ghana profit from provisions under the Protocol.

8.0 CONCLUSION

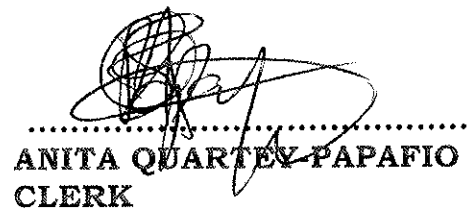
It is imperative that Ghana protects the intellectual property of its genetic resources and also reduce the risk of bio-piracy which is the creation of biological products from native species without consent or compensation to the country of origin.

The Committee therefore recommends to the House for adoption and ratification of the Nagoya Protocol on Access to Genetic Resources and the fair and equitable sharing from the utilization to the Convention on Biological Diversity.

Respectfully submitted



.....
HON. EMMANUEL AGYARKO
CHAIRMAN



.....
ANITA QUARTEY-PAPAFIO
CLERK