

**ASSOCIATION POUR LE DEVENIR  
DES AUTOCHTONES ET DE LEUR  
CONNAISSANCE ORIGINELLE  
(Association for the Future of  
Indigenous Peoples and their  
Original Knowledge)  
N°...../ADACO/PR/SG**



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**Unité-Egalité-Partage**

**ADACO's contribution to the online survey<sup>1</sup> on information systems, registries  
and databases on genetic resources, traditional knowledge and traditional  
cultural expressions**

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**1- Is there any formal domestic or customary legal system in your country  
requiring, or at least relating to, the establishment and/or maintenance of  
an information system on GRs, TK and/or TCEs, such as:**

**• conventional intellectual property (IP) law?**

Those coming under conventional IP law are as follows:

🇬🇧 Act No. 1/87 of July 29, 1987, establishing the protection of copyright and related rights, and for which the following, in particular, can be mentioned:

Article 1: purpose of the Act;

Title I: Copyright; Chapter I: Copyright Protection (Articles 2 to 24); Chapter 2: Scope of Copyright (Articles 25 to 41); Chapter 3: Transfer of Copyright (Articles 42 to 59); Chapter 4: Duration of Economic Rights (Article 60); Chapter 5: Public Domain (Article 61); Chapter 6: Exercise of Copyright (Article 62);

Title II: Related Rights; Chapter I: Protection of Related Rights (Articles 78 and 79); Chapter 2: Authorization of Performers (Articles 80 and 81); Chapter 5: Limitation to Protection (Articles 85 and 86);

Title III: Rights in Blank Media (Articles 89).

**• a specific law for the protection of TK and/or TCEs?**

Laws relating to the protection of TK and/or TCEs are as follows:

🇬🇧 Act No. 2/94 of December 23, 1994, on the protection of cultural property includes the following:

Title I: General Provisions, Chapter 1: (Articles 1 to 3).

Title II: Protection; Sections 1 and 2: Definition of Inventory and Inventory Effects; Articles 4 to Chapter 2: Classification; Section 1: Definition and Classification Procedure (Articles 8 to 16); Section 2: Effects of Classification (Articles 17 to 23); Chapter V: Trade in Cultural Property; Section 1: Authorization (Articles 28 and 29); Chapter VII: Export and Import of Cultural Property; Sections 1 and 2 (Articles 41 to 49).

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<sup>1</sup> This survey has been produced by the Secretariat of the World Intellectual Property Organization.

Act No. 0016/2001 of December 31, 2001, on the Forest Code in the Gabonese Republic deals with the right of customary use, in its Chapter VI, in particular in Articles 252 to 254.

Act No. 013/2006 authorizing the ratification of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions:

“Article 1: This Act, adopted pursuant to the provisions of Article 114 of the Constitution, authorizes ratification of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

Article 2: Ratification of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions is permitted.

Article 3: This Act shall be registered, published under urgent procedure and enforced as a law of the State.”

The Convention on the Protection and Promotion of the Diversity of Cultural Expressions, Paris, October 20, 2005, including:

I. Objectives (Article 1); Guiding Principles (Article 2);

II. Scope of Application: (Article 3);

III. Definitions (Article 4);

IV. Rights and Obligations of Parties (Articles 7 to 12); Article 7: Measures to Promote Cultural Expressions; Article 8: Measures to Protect Cultural Expressions; Article 18: International Fund for Cultural Diversity.

- **access and benefit-sharing legislation or legislation dealing with biodiversity, the environment, intangible cultural heritage, publicly funded research, food and agriculture?**

Gabon issued its first Internationally Recognized Certificate of Compliance (IRCC) of the Nagoya Protocol regarding access to genetic resources and the fair and equitable sharing of benefits arising from their utilization. This IRCC was signed on October 16, 2020, by the Executive Secretary of the National Parks Agency (who is also the Competent National Authority of the Nagoya Protocol), in the presence of the Minister of Water, Forests, Sea and Environment, Responsible for the Climate Plan and Land-use Plan. The IRCC provides international proof that the user’s access to the GR, to which the IRCC applies, has been subject to prior informed consent (PIC) by the provider and that mutually agreed terms (MATs) have been established. PIC and the MATs are two mandatory provisions of the Nagoya Protocol. The IRCC therefore ensures legal certainty, clarity and transparency for the user of the GR. *“Gabon’s issuance of its first IRCC is an important step in the process of putting into motion the Nagoya Protocol, whose aim is to protect our genetic resources and, above all, related traditional knowledge such as Iboga, which has medicinal virtues.”*

- **customary laws and practices?**

With regard to customary laws and practices, the following can be mentioned:

Decree No. 692/PR/MEFEPEPN of August 24, 2004, which establishes the conditions for the exercise of customary rights of use in respect of forests, wildlife, hunting and fishing, stipulates in its Article 1 that “This Decree, adopted pursuant to the provisions of Articles 14, Paragraph 2, and 297 of Act No. 16/2001 of December 31, 2001, sets out the conditions for the exercise of customary rights of use in respect of forests, wildlife, hunting and fishing.”

General Provisions: Articles 2 to 4; Chapter 1: Customary Rights of Use in Forestry (Articles 5 and 6); Chapter 2: Customary Rights of Use in Wildlife and Hunting

(Article 7); Chapter 3: Customary Rights of Use in Fishing in Protected Areas; Chapter 4: Miscellaneous and Final Provisions (9 and 11).

- 📌 Decree No. 001028-PR-MEFEPEPN of December 1, 2004, setting out the conditions for the creation of community forests, stipulates in Article 1: see Articles 157 and 197 of Act No. 01/2001; Chapter I: Creation of a Community Forest (Articles 3 to 10); Chapter II: Forms of Management (Articles 11 and 12).

- **the law of confidentiality/trade secrets/undisclosed information?**

- 📌 Ordinance No. 00000015/PR/2018 of February 23, 2018, on the regulation of cybersecurity and the fight against cybercrime in the Gabonese Republic states the following in its Articles 2, 5 and 13:

“This Ordinance is aimed at the protection and security of electronic communications networks, information systems, electronic transactions, privacy and the protection of minors in cyberspace. As such, it aims in particular to:


- define and punish any offense committed in cyberspace;
- fight telephone fraud;
- set the rate for international telecommunications;
- build trust in electronic communications networks and information systems;
- establish the legal regime for digital evidence, security activities, cryptography and electronic certification;
- protect the fundamental rights of natural persons, in particular the right to human dignity, honor and privacy, and the legitimate interests of legal persons;
- protect critical information infrastructure;
- promote the use of information-security technologies as a means *of protecting IP rights*; and
- ensure a balance between public and private sector interests.”

“For the purposes of this ordinance, the following definitions shall apply:

- enciphering: any technique or any process by which, using a secret arrangement called a key, digital data and clear information are transformed into information unintelligible by third parties not having knowledge of the key;
- block enciphering: enciphering that operates on clear blocks of information and enciphered information;
- encipher: an action to ensure the confidentiality of information, using secret codes, to make it unintelligible to third parties by using cryptographic mechanisms;
- key: in a cipher system, the key corresponds to a mathematical value, a word or a sentence that, thanks to the enciphering algorithm, makes it possible to encipher or decipher a message;
- cipher key: a series of symbols controlling the encipherment and decipherment operations;
- private key: a key used in asymmetric encipherment mechanisms or in public key encipherment, belonging to an entity and which must be kept secret;
- public key: a key used to encipher a message in an asymmetric system, and therefore freely distributed;
- secret key: a key known to the sender and the recipient, used to encipher and decipher the messages and which uses the symmetrical encipherment mechanism;
- source code: all the technical specifications, without restriction of access or implementation, of a software or protocol used for communication,

- interconnection, exchange or data format;
- *confidentiality: maintaining the secrecy of information and transactions in order to prevent the unauthorized disclosure of information to non-recipients which may allow the reading, listening to, or illicit copying of intentional or accidental origin during their storage, processing or transfer;*
  - encryption: the use of non-ordinary codes or signals making it possible to maintain information to be transmitted in signals that are incomprehensible to third parties;
  - cryptanalysis: an operation that seeks to restore inimitable information to clear information without knowledge of the encryption key that has been used;
  - cryptogram: an enciphered or coded message;
  - cryptography: the use of mathematics to write information, so as to make it unintelligible to those who do not have the ability to decipher it;
  - cryptology: the science relating to the protection and security of information, in particular for the confidentiality, authentication, integrity and non-repudiation of transmitted data;
  - cybercrime: all the offenses committed in cyberspace by means other than those usually used, and in a manner complementary to conventional crime;
  - cybersecurity: a set of technical, organizational, legal, financial, human, procedural and other measures for prevention, protection and deterrence, designed to achieve the security objectives set through (i) electronic communications networks, (ii) information systems and (iii) the protection of the privacy of individuals;
  - cyberspace: all the digitized data constituting a universe of information and a communication medium linked to the global interconnection of equipment for the automated processing of digital data; and
  - denial of service: an attack by saturation of a resource of the information system or the electronic communications network, so that it fails and can no longer perform the services expected of it, etc.”

*“Operators of information systems shall take all technical and administrative measures to ensure the security of the services offered. To this end, they should equip themselves with standardized systems allowing them to continuously identify, assess, process and manage the risks related to the security of information systems. They are also required to set up technical mechanisms to deal with attacks that harm the permanent availability of systems and their integrity, authentication, non-repudiation by third party users, data confidentiality and physical security. The mechanisms provided for in Paragraph 2 above shall be approved and validated by the competent authority. Information systems shall be protected against possible radiation and intrusions that may compromise the integrity of the data transmitted and against any other external attack.”*

 Act No. 001/2011 on the Protection of Personal Data provides for the following:  
“Article 6, definitions:

- *Biometrics the mathematical analysis of the biological characteristics of an individual in order to determine their identity irrefutably. Biometrics is based on the principle of recognition of physical characteristics, including fingerprints, iris, retina, hand, voice prints and deoxyribonucleic acid (DNA), which provide irrefutable proof of an individual’s identity because they are a unique biological characteristic that distinguishes one person from another and can be associated with one person only.*
- Code of conduct: any set of rules, including usage charters, developed by the data controller, in order to establish the proper use of the computer resources, the Internet

and electronic communications of the organization concerned. This code shall be approved by the National Commission for the Protection of Personal Data.

- Electronic communications: the emission, transmission or reception of signs, signals, writings, images or sounds, by electronic or magnetic means.
- *Consent of the data subject: any express, unambiguous, free, specific and informed expression of wishes by which the data subject or their legal, judicial or contractual representative accepts that their personal data will be processed manually or electronically.*
- *Personal data: any information relating to a natural person identified or identifiable directly or indirectly, by reference to an identification number or to one or more elements specific to their physical, physiological, genetic, psychological, cultural, social or economic identity.*
- *Health data: any information concerning the physical and mental state of a data subject, including the genetic data referred to in Point 2 of this article.*
- *Sensitive data: all personal data relating to religious, philosophical, political, trade union opinions or activities, sex life, race, health, social measures, prosecutions, or criminal or administrative sanctions,” etc.*

“Article 15: A commission in charge of personal data protection is hereby established with legal personality and administrative and financial autonomy, to be known as the *Commission nationale pour la protection des données à caractère personnel* (National Commission for the Protection of Personal Data), abbreviated as ‘CNPDCP’. The CNPDCP shall be an independent administrative authority responsible for ensuring that the processing of personal data is carried out in accordance with the provisions of this Act.”

“Article 17: There shall be nine (9) permanent commissioners, who shall be appointed as follows:

- three persons appointed by the President of the Republic, including the President of the Commission;
- one magistrate, member of the Council of State, appointed on the proposal of the President of the Council of State;
- one magistrate member of the Court of Cassation appointed on the proposal of the First President of the Court of Cassation;
- one lawyer appointed by the Bar Association;
- one physician appointed by the Order of Physicians;
- one representative of human rights organizations nominated by his/her peers;
- one expert in information and communication technology appointed by the Minister in charge of the Digital Economy.”

“Article 64: *The processing of personal data shall be confidential.* This processing shall be carried out by persons acting under the authority of the controller and only on their instructions. To carry out the processing, the person in charge must choose persons who present, with regard to maintaining the confidentiality of the data, full guarantees of technical and legal knowledge as well as of personal integrity. The persons who will process such data must sign a written commitment to comply with the present Act. *Failure to comply with the obligation of confidentiality in the processing of personal data shall constitute a breach of professional secrecy. As such, it shall be punishable by the penalties provided for in the Criminal Code, in particular in its Article 289.*”

“Article 65: *Personal data may be processed by a subcontractor or by a person acting under the authority of the data processor or of the subcontractor only under the directives of the data controller. The subcontractor must present sufficient guarantees*

*to ensure the implementation of the security and confidentiality measures mentioned in Article 64 above. This requirement does not relieve the data controller of their obligation to ensure compliance with these measures. The contract between the subcontractor and the data controller shall include an indication of the obligations incumbent on the subcontractor in terms of data protection, security and confidentiality and shall provide that the subcontractor may act only on the directives of the data controller.*"

"Article 66: The data controller is required to take all necessary precautions in view of the nature of the data and, in particular, to prevent them from being distorted, damaged or accessed by unauthorized third parties. They shall in particular take any measure to:

- ensure that, for the use of an automated data-processing system, authorized persons have access to only that personal data within the scope of their authority;
- ensure that the identity of third parties to whom personal data may be forwarded can be verified and ascertained;
- ensure that (i) the identity of persons who had access to the information system and (ii) knowledge of which data were read or entered into the system, and at what time and by whom, can be identified and ascertained after the event;
- prevent any unauthorized person from gaining access to the premises and equipment used for the processing of data; and
- prevent data carriers from being read, copied, modified, destroyed or moved by an unauthorized person," etc.

*"Article 71: The processing of personal data for research purposes in the field of health shall be subject to the provisions of this Act, with the exception of Articles 52, 55 to 58 and 59 of this Act."*

"Article 85: The provisions of this Act shall not apply to the processing of personal data carried out solely for the purposes of:

- *literary and artistic expression;*
- *conducting, in a professional capacity, the activity of journalist, in accordance with the ethical rules of this profession.*

"Article 86: For the processing operations mentioned in the second point of the preceding article, exemption from the reporting obligation provided for in Article 51 above shall be *subject to the appointment, by the data controller, of a data-protection correspondent belonging to a print or audiovisual press organization, who shall be responsible for maintaining a register of the processing operations implemented by this controller and for independently ensuring the application of the provisions of this Act. This appointment shall be brought to the attention of the National Commission for the Protection of Personal Data.*"

"Article 89: *The interconnection of the information systems referred to in Article 52 of this Act belonging to one or more legal persons operating a public service and whose purposes correspond to different public interests must be authorized by the National Commission for the Protection of Personal Data. The same shall apply to processing operations carried out by the State for the purpose of making one or more remote services available to users of the administration within the framework of electronic administration. The interconnection of files belonging to private individuals for which the main purposes are different is also subject to authorization by the Commission.*"

"Article 90: *The interconnection of information systems must make it possible to achieve legal or statutory objectives that are of legitimate interest to the controllers. It shall not result in discrimination or reduction of the rights, freedoms and guarantees*

*for the data subjects, nor shall it be accompanied by appropriate security measures, and it shall take into account the principle of the relevance of the data subject to interconnection.”*

- ✚ Act No. 022/2017 of January 26, 2018, establishing the National Order of Chartered Accountants and regulating the title of the profession of Chartered Accountant in the Gabonese Republic, stipulates the following in its Articles 18 and 19:

*“Chartered accountants and their staff are bound by **professional secrecy** according to the conditions and subject to the penalties provided for by the provisions of the Code of Criminal Procedure. The members of the Order are bound by the same obligations, for the affairs with which they have to deal in the course of their duties, except for purely administrative matters for which they are required to report to their clients.”*

*“However, the persons referred to in the preceding article shall be **released from professional secrecy** in cases of information opened against them or proceedings brought against them by the public authorities or under the right of communication provided for by the provisions of the General Tax Code or of the Customs Code, or in proceedings brought before the Disciplinary Chamber of the Order.”*

- ✚ Order No. 001558/MEFSN of October 11, 2019, approving the Code of Ethics of the National Order of Chartered Accountants of Gabon also stipulates the following in its Article 10:

*“Confidentiality: without prejudice to the provisions of Article 21 of Regulation No. 11/01 UEAC of December 5, 2001, relating to professional secrecy, the professional accountant must respect the confidential nature of the information collected as part of their professional and business relations and must not disclose any of this information to third parties without specific appropriate authorization, unless they have a right or a legal or professional obligation to do so. Confidential information collected as part of professional and business relations should not be used for the personal benefit of the professional accountant or third parties.”*

- ✚ Ordinance No. 0011/PR/2020 of August 14, 2020, establishing and organizing the National Verification and Audit Authority, stipulates the following in its Article 15: “the members of the Authority shall have the same prerogatives and the same means of investigation as judicial police officers and agents of customs, tax and Treasury administrations. *They shall be bound by professional secrecy.*”

- ✚ Meanwhile, Act No. 025/2021 of December 28, 2021, regulating electronic transactions in the Gabonese Republic, provides the following definitions in its Article 6:

*“-**enciphering**: any technique or any process by which, using a secret arrangement called a key, digital data and clear information are transformed into information unintelligible by third parties not having knowledge of the key;*


*-**code of conduct**: agreement or set of rules which are not imposed by legislative, regulatory or administrative provisions and which define the behavior of businesses that undertake to be bound by it with regard to one or more commercial practices or one or more sectors of activity;*

*-**secret agreement**: a consensus on unpublished keys, necessary for implementing a cryptographic measure or service for encipherment or decipherment operations;*

*-**personal data**: any information relating to a natural person identified or identifiable directly or indirectly, by reference to an identification number or to one or more*

elements specific to their physical, physiological, genetic, psychological, cultural, social or economic identity;

**-data integrity:** a security criterion defining the state of an electronic communication network, an information system or terminal equipment that has remained intact and makes it possible to ensure that the resources have not been altered,” etc.

 Act No. 006/2014 of August 28, 2014, establishing the national standardization system, provides the following definitions in its Articles 2 and 3:

*“Standardization is the establishment of requirements, specifications or technical rules applicable to the manufacture or marketing of products, goods or services. Its purpose is to provide reference documents of national, sub-regional or international scope, including solutions to technical or commercial problems relating to products, goods and services. It consists of defining, according to habits, customs, and available technical and financial means, the characteristics or standards of products, goods or services for the purpose of precision, simplification, quality, lower cost and competitiveness.”*

*“The standard acts as reference data resulting from a reasoned collective choice and able to serve as a basis for the solution of a given problem. It shall be considered as a technical specification or any other document in lieu thereof, accessible to the public and based on the results of science, technology or experience. It defines the experiences or characteristics relating to a product, test, good or service. It covers the fields of terminology, metrology, symbols, testing, marking, labeling, packaging and services. It shall be drawn up in consultation with all the interested parties.”*

**2- Is your country party to any international or regional legal instrument (such as a convention, treaty or declaration) that requires the establishment of or participation in information systems for the protection, promotion and/or safeguarding of GRs, TK and/or TCEs? If so, please indicate which international or regional legal instrument.**

The international or regional legal instruments ratified by Gabon that require the establishment of or participation in information systems for the protection, promotion and/or safeguarding of GRs, TK and/or TCEs are shown below.

- WIPO-administered treaties:
  - Hague Agreement Concerning the International Registration of Industrial Designs (August 18, 2003)
  - WIPO Performances and Phonograms Treaty (May 20, 2002)
  - WIPO Copyright Treaty (March 6, 2002)
  - Patent Cooperation Treaty (January 24, 1978)
  - Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (June 10, 1975)
  - Convention Establishing the World Intellectual Property Organization (June 6, 1975)
  - Paris Convention for the Protection of Industrial Property (February 29, 1964)
  - Berne Convention for the Protection of Literary and Artistic Works <https://www.wipo.int/treaties/en/ip/berne/index.html> (March 26, 1962)
- Multilateral treaties:
  - Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity (October 12, 2014)
  - Optional Protocol to the Convention on the Rights of Persons with Disabilities (July 26, 2014)



- Convention on the Protection of the Underwater Cultural Heritage (May 1, 2010)
- WHO Framework Convention on Tobacco Control (May 21, 2009)
- Convention on the Rights of Persons with Disabilities (May 3, 2008)
- International Plant Protection Convention (April 23, 2008)
- Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 <https://www.wipo.int/wipolex/en/treaties/details/285> (August 15, 2007)
- Stockholm Convention on Persistent Organic Pollutants (August 5, 2007)
- Cartagena Protocol on Biosafety to the Convention on Biological Diversity <https://www.wipo.int/wipolex/en/treaties/details/256> (July 31, 2007)
- The Kyoto Protocol to the United Nations Framework Convention on Climate Change <https://www.wipo.int/wipolex/en/treaties/details/278> (March 12, 2007)
- International Treaty on Plant Genetic Resources for Food and Agriculture [http://www.wipo.int/wipolex/fr/other\\_treaties/details.jsp?group\\_id=22&treaty\\_id=255](http://www.wipo.int/wipolex/fr/other_treaties/details.jsp?group_id=22&treaty_id=255) (February 11, 2007)
- Convention for the Safeguarding of the Intangible Cultural Heritage (April 20, 2006)
- United Nations Convention on Contracts for the International Sale of Goods <https://www.wipo.int/wipolex/en/treaties/details/292> (January 1, 2006)
- Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict <https://www.wipo.int/wipolex/en/treaties/details/384> (March 9, 2004)
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property <https://www.wipo.int/wipolex/en/treaties/details/386> (November 29, 2003)
- United Nations Framework Convention on Climate Change (April 21, 1998)
- United Nations Convention on the Law of the Sea (April 10, 1998)
- Convention on Biological Diversity (June 12, 1997)
- United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (December 26, 1996)
- Agreement Establishing the World Trade Organization (WTO) (January 1, 1995)
- World Trade Organization (WTO) – Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) [1994] (January 1, 1995)
- Convention concerning the Protection of the World Cultural and Natural Heritage (March 30, 1987)
- International Covenant on Economic, Social and Cultural Rights (April 21, 1983)
- Protocol (I) additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (October 8, 1980)
- Protocol (II) additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (October 8, 1980)
- Agreement on the Importation of Educational, Scientific and Cultural Materials <https://www.wipo.int/wipolex/en/treaties/details/305> (December 4, 1962)
- Convention for the Protection of Cultural Property in the Event of Armed Conflict (March 4, 1962)
- Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict <https://www.wipo.int/wipolex/en/treaties/details/383> (March 4, 1962)
- Convention on International Civil Aviation (February 17, 1962)
- Convention (I) for the Amelioration of the Condition of the Wounded and Sick

- in Armed Forces in the Field (August 17, 1960)
- Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (August 17, 1960)
- Convention (III) relative to the Treatment of Prisoners of War (August 17, 1960)
- Convention (IV) relative to the Protection of Civilian Persons in Time of War (August 17, 1960)
- Regional Treaties related to IP (Entry into force of the treaty for the contracting party):
  - Cultural Charter for Africa (September 26, 2007)
  - Bangui Agreement Relating to the Creation of an African Intellectual Property Organization (OAPI), Constituting a Revision of the Agreement Relating to the Creation of an African and Malagasy Office of Industrial Property, March 2, 1977
- Regional economic integration treaties (Entry into force of the treaty for the contracting party):
  - Abuja Treaty Establishing the African Economic Community (December 6, 2007)
  - Constitutive Act of the African Union (June 5, 2001)
  - Treaty Establishing the Economic and Monetary Community of Central Africa <https://www.wipo.int/wipolex/en/treaties/details/296> <https://www.wipo.int/wipolex/en/treaties/details/296> (June 25, 1999)
  - Treaty Establishing the Economic Community of Central African States <https://www.wipo.int/wipolex/en/treaties/details/297> (December 18, 1984)
  - The Georgetown Agreement (formally establishing the African, Caribbean and Pacific Group of States, the “ACP Group”) <https://www.wipo.int/wipolex/en/treaties/details/220> (November 12, 1977)

In addition, the Bangui Agreement, which was adopted on March 2, 1977, governs IP within the Member States of the African Intellectual Property Organization (OAPI). It acts as the national law for each of the 17 Member States. The Bangui Agreement was revised on February 24, 1999, and December 14, 2015. This most recent revision was intended to bring it into line with the various agreements to which OAPI is a party and to improve the quality of its offer. The Revised Bangui Agreement entered into force on November 20, 2020. It contains many innovations, including (i) expansion of OAPI’s missions to arbitration and mediation as an alternative means of dispute settlement; (ii) examination of all distinctive signs; (iii) a broadening of OAPI’s competence so that it can now hear oppositions on all IP titles; and (iv) harmonization of the deadlines for opposition actions and property claims for all titles (3 months from the publication of the registration application), as well as of the deadlines for appeals before the High Commission of Appeals (60 days from the notification of the decision).

The Revised Bangui Agreement also provides for final judicial decisions on the validity of titles to be binding in all Member States, except those based on public order and morality. Thus, according to Article 2 (1) of Annex III to the Revised Bangui Agreement, *“Any visible or audible sign used or intended to be used and capable of distinguishing the goods or services of any natural or legal person shall be considered a trademark or service mark.”*

This article also states that *the following in particular may constitute such a sign: denominations in all forms, figurative signs, shapes, arrangements, combinations and shades of colors, audible signs such as sounds and musical phrases, audiovisual signs*

and series of signs.

This article goes on to state the following: *“A collective mark shall consist of the mark of products or services whose conditions of use are laid down in rules approved by the competent authority and which may be used only by public enterprises, unions or groups of unions, associations, groups of producers, manufacturers, craftsmen or tradesmen, provided they are officially recognized and have legal personality.*

A collective certification mark shall be a mark that is applied to a product or service which by nature possesses the properties, qualities or characteristics specified in its regulations. The Revised Bangui Agreement instituted a new classification system that allows for a single brand of goods and services. A new system of division was introduced. *When a trademark targeting several classifications is opposed, it is now possible to request the division of the trademark in order to safeguard the one that covers different goods and to allow the trademark which covers the opposing classification to be subject to opposition procedures. Registration of a trademark is necessary in order to give the owner the exclusive right to use it; this right is enforceable against all parties. This protection is valid for a period of 10 years, renewable and without limitation. The rights attached to the trademark are transferable in whole or in part.* Infringement of the trademark may be punished by an action for infringement, before either criminal courts or civil courts.

Patent protection is also governed by the Revised Bangui Agreement and its Annex 1. According to Article 2, *“An invention that is new, involves an inventive step and is industrially applicable may be the subject of an invention patent.”* The patent applicant must file or send their request to the Director General of OAPI. The invention is then subject to:


- a formal examination of its purpose and of the conformity of its claims;
- a substantive examination to establish that the invention does not duplicate a previously granted patent enjoying prior protection; and
- an examination to ascertain that it is new and results from an inventive step.

The granting of patents takes place by decision of the Director General of OAPI and must give rise to a descriptive brief. The patent expires, in principle, at the end of the 20<sup>th</sup> calendar year from the filing date of the application.

According to Article 1 of Annex IV of the Revised Bangui Agreement, *“any arrangement of lines or colors shall be considered a design, and any three-dimensional shape, whether or not associated with lines or colors, shall be considered a model, provided that the said arrangement or shape gives a special appearance to an industrial or craft product and may serve as a pattern for the manufacture of such a product.”* Registration confers on the creator of an industrial design an exclusive right to exploit that design and to sell or cause to be sold for industrial or commercial purposes the goods in which that design is incorporated. The protection is valid for a period of five years, renewable twice in consecutive periods of five years.

### **3- Does any information system(s) of GRs, TK and/or TCEs exist in your country (whether IP-related or not)? If so, please provide a description of such information system(s).**

Information systems on GRs, TK and/or TCEs (whether IP-related or not) are described in the texts establishing BUGADA (the Gabonese Copyrights Office) and OGAPI (the Gabonese Office of Industrial Property). These texts and their relevant passages are shown below.

 Decree No.000303/PR/MTCPMEI of August 14, 2020, approving the statutes of OGAPI states, in its Articles 2 and 31 to 34, the following:

“OGAPI shall assist the Government in the implementation of public policies in the field

of industrial property, in liaison with the Government administrations and national and international bodies concerned. In this capacity, it is responsible for:

- *monitoring and dealing with all matters relating to industrial property at the national and international levels;*
- ensuring and promoting the protection and use of industrial property throughout Gabon;
- combating infringements on industrial property rights;
- proposing acts of ratification or notice of termination of international commitments relating to industrial property and ensuring their implementation;
- assisting economic operators in the preparation of *documents for obtaining industrial property rights* and in ensuring their application;
- assisting economic operators in preparing *documents for obtaining industrial property rights and for assignment and licensing;*
- *organizing, coordinating and directing awareness-raising and information activities at the national level, in the field of industrial property;* and
- ensuring that national applications for industrial property rights are submitted to OAPI.”

“The Information Systems, Documentation and Archives Service shall be responsible for:

- implementing the strategy, program and actions of the OGAPI information systems;
- advising and assisting other administrative entities of OGAPI on matters relating to information systems;
- *implementing, managing and maintaining the Intranet system;*
- *setting up databases in the field of industrial property and ensuring their management;*
- *ensuring a technology watch;*
- *making available all technical documentation on industrial property to users;*
- *ensuring the management of the archives.”*

“The Department of Property Titles and Industrial Regulation shall be responsible for:

- providing technical assistance to economic operators in the preparation of documents for obtaining patents for inventions, utility models, certificates of addition and plant variety certificates;
- receiving all applications for industrial property rights, utility models and certificates of addition, trade names, trademarks, industrial designs and geographical indications;
- examining any application file for an industrial property title before it is submitted to OAPI, and issuing the provisional receipt;
- preparing the certificate of issuance of industrial property rights;
- ensuring the protection and promotion of inventions, innovations and creations in the field of industry;
- seeing to it that the laws and regulations relating to IP are applied;
- dealing with all matters relating to infringements on industrial property rights and proposing measures relating to the issue;
- preparing certificates of ratification or notice of termination of treaties and developing partnerships with international industrial property organizations.”

“The Division of Property Titles and Industrial Regulation includes:

- the Patent and Plant Breeders Service, the Geographical Indications Service, the Distinctive Signs Service and the Regulatory Service.”

- 📄 Decree No. 00264/PR/MENESTFPRSCJS of January 16, 2013, on establishing, attributing, organizing and operating the Gabonese Copyright and Related Rights Office, stipulates the following in its Articles 2, 3, 5, 18, 19, 20, 24 and 25:

“BUGADA shall be a public institution of a professional nature with legal personality and administrative and financial management autonomy. It shall be placed under the technical supervision of the Ministry in charge of Culture and under the financial supervision of the Ministry in charge of the Budget. In this way, *the Gabonese Copyright and Related Rights Office shall be responsible for exercising and administering rights relating to the creation, performance, public performance and mechanical production of literary and artistic works.* In this capacity, it is responsible for:

- *determining the pecuniary and material compensation for the exploitation of literary, scientific and artistic works by users, and establishing contracts giving prior authorization for the exploitation of such works;*
- *protecting and managing the rights of authors of scientific and artistic literary works, performers, producers of phonograms and broadcasting organizations;*
- *collecting royalties from users, for the exploitation of their works and for private copying;*
- *distributing the royalties among the authors or their successors in title;*
- *receiving and recording, after verification by the competent committee, the declarations of the works, made by the authors or their successors in title;*
- *issuing the authorizations relating to public performance or reproduction of works by whatever means;*
- *providing aid and assistance to certain categories of authors or performers within the framework of the assistance fund;*
- *drafting and adopting the statutes of BUGADA, subject to the approval of the Government;*
- *entering into partnership and reciprocity agreements with foreign collective management organizations, with a view to managing their interests in Gabon;*
- *representing creators of intellectual works anywhere in Gabon and abroad;*
- *joining international organizations responsible for the management of the rights of authors, artists and broadcasting organizations.”*

“The Operations and Collection Department shall be responsible for the following:

- *identifying and making a list of users of protected works;*
- *issuing authorizations for the exploitation of works in the general repertoire;*
- *providing users with and then collecting and processing copyright bulletins and programs of the works performed;*
- *processing authorizations for performance or public representation;*
- *collecting royalties from users who owe them;*
- *informing and raising awareness among authors and users;*
- *drawing up a royalties sheet for each user;*
- *periodically preparing an activity report.”*

“The General Documentation and Distribution Department is responsible for the following:

- *receiving and processing applications for membership in BUGADA;*
- *receiving the declarations of works;*
- *compiling the files and catalogs of works;*
- *creating and managing registers of authors and works;*

- *drawing up the copyright distribution statements on the basis of the programs of the works performed;*
- *distributing the royalties among the various successors in title;*
- *periodically preparing an activity report.*”

“The Legal Affairs Department is responsible for the following:

- assisting and advising the Director General on legal matters;
- enforcing regulations and participating in the drawing up of legal texts related to BUGADA;
- collecting and *processing applications for registration of applications and declarations of works;*
- acting as legal advisor to the other departments under BUGADA;
- identifying breaches of the legislation and bringing them before the competent courts if necessary;
- popularizing and disseminating the legal texts governing the field of intellectual works;
- ensuring the enforcement of copyright and related rights regulations;
- following up litigation cases;
- ensuring legal compliance with and the legal regularity of acts that are binding on BUGADA;
- ensuring the preparation and formatting of draft texts initiated by BUGADA or submitted for signing by the Director General;
- dealing with all types of reproduction contracts;
- periodically preparing an activity report.”

“The Regulatory Service is responsible for:

- *collecting and processing copyright and related rights bulletins and programs of the works performed;*
- popularizing a legal culture;
- ensuring the drafting of legal and regulatory texts to be submitted to the competent authorities;
- disseminating and applying legislative texts and regulations;
- processing general contracts of representation or public performance as well as revenue declaration slips;
- periodically preparing an activity report.”

It should be noted that BUGADA replaced the National Agency for Artistic and Cultural Promotion (ANPAC), which was done away with by the Council of Ministers on November 16, 2018. The prerogatives of ANPAC were transferred to the Office of the General Director of Cultural Industries. The problem with BUGADA is that it suffers operating difficulties. The Indigenous Peoples and Local Communities of Gabon are not informed of or supported in the processes for registering their TK with OGAPI and BUGADA. There is practically no awareness-raising support for these peoples with regard to intellectual and industrial property.

Nonetheless, the *Inventory and Promotion of the Intangible Cultural Heritage of the Pygmy Populations of Gabon* was carried out from September 1, 2015, to December 1, 2017. According to its narrative report, it was funded by the United States as part of international assistance by the Intangible Cultural Heritage Fund for a total of 38,520 US dollars (Intangible Cultural Heritage Fund: 24,560 US dollars, State Party Contributions: 13,960 US dollars).

Fourteen years after Gabon ratified the Convention for the Safeguarding of the Intangible Cultural Heritage, training – which has not yet led to a program of action to implement it at the national level – was carried out by UNESCO’s multi-country office in Libreville for officials of the Ministry in charge of Culture, Communication, the Interior, and NGOs and national associations. Based on this observation, UNESCO’s multi-country office in Libreville, in partnership with the Ministry of the Interior, implemented a series of four training workshops, from June to August 2012, for local communities on inventory methods.

A total of 81 participants took part in the workshops. These workshops provided an opportunity to raise awareness on the disappearance of intangible cultural heritage and their main vector, language. At the end of the workshops, we found that the Pygmy communities present in these different provinces had not been involved in the work. This led us to consider appropriate awareness-raising/training for these communities, who suffer, as much as their Bantu neighbors, from the loss of cultural heritage aspects that form their identity. The hypothesis that we submitted not only to the associations of Pygmies present in Libreville, but also to the Pygmies who participated in a seminar in September 2010 that brought together practitioners, *mvet* performers, teacher-researchers and representatives of Hausa communities.

The seminar had made it possible to familiarize stakeholders with the 2003 Convention. An interview with Pygmies not organized into NGOs was carried out at the Census Service of the Department of Cultural Heritage Conservation (DCPC) of the Ministry. It highlighted the threat of disappearance and especially of their assimilation, which would lead to the disappearance of their intangible cultural heritage. The results of the inventories were disseminated, particularly in the form of a brochure, with the goal of promoting better mutual knowledge of the intangible cultural heritage of the different Pygmy communities. As the communities concerned are still marginalized, this action has contributed to strengthening the mutual respect and dialog between cultures at the national level and led to the ICH-04 Request Form of March 10, 2014, regarding the assimilation of the Barimba of Nyanga and the Okowa in Estuaire Province.

Unfortunately, we are still waiting for the Gabonese Government to register the aspects of this intangible heritage of the indigenous Pygmies of Gabon on the Urgent Safeguarding List. Indeed, these indigenous people have already lost many aspects of their heritage. It is for these reasons that WIPO, UNESCO, WTO, OAPI and ARIPO must harmonize their action plans to protect this traditional knowledge. Furthermore, it is this objective that ADACO is pursuing in Gabon so that the Government can become aware of the problem.

❖ **The following questions relate specifically to information systems that have an IP-related purpose or function.**

**4- Which IP-related objectives are sought to be achieved through this information system(s)?**



In general, these systems seek to collect, catalog, record, protect, preserve, safeguard and promote this information in order to build relevant or conclusive databases, with the purpose of defining and implementing appropriate public policies to enable holders of TK and TCEs to have access to intellectual and industrial property and to live from it.

However, there is not yet a single system for centralizing this information in Gabon. The legal and institutional framework is in the process of being implemented, with a goal of creating networks of exchanges and institutional cooperation between public administrations, the private sector and civil society organizations, if the State so

wishes. As part of this process, indigenous people and local communities are not always given priority.


**5- What types of information are included in such an information system, including potentially sensitive categories of information such as sacred TK/TCEs and/or secret TK/TCEs?**

The types of information included are as follows:

-  **BUGADA:** The information system includes the following information:
  - requests for authorizations for performance or public representation;
  - collecting and processing copyright bulletins and programs of the works performed;
  - examination of applications for authorization for mechanical reproduction and collection of related fees;
  - the search for and identification of intellectual works;
  - identifying and making a list of users of intellectual works;
  - drawing up program sheets and making them available to users; drawing up a royalties sheet for each user;
  - issuing membership forms to authors;
  - conducting checks on users, in order to verify the authenticity of the copyright bulletins and the works performed and the amounts of the royalties relating to the latter;
  - processing requests for authorizations for the exploitation of works;
  - issuing royalties sheets;
  - collecting copyright royalties;
  - periodically preparing an activity report;
  - applications for BUGADA membership;
  - receiving the declarations of works;
  - compiling the files and catalogs of works;
  - creating and managing registers of authors and works;
  - drawing up the royalties distribution statements on the basis of the programs of the works performed;
  - distributing the royalties among the various successors in title;
  - grouping and processing works by authors of literary texts such as novels, short stories, tales, literary talks, conferences, scientific works and other works of a similar nature;
  - grouping and processing dramatico-musical, theatrical, choreographic, pantomimic and similar works;
  - grouping and processing musical works of any genre, with or without lyrics;
  - grouping and processing works by painters, sculptors, draftsmen and similar trades;
  - grouping and processing works by authors who have produced radio and television programs and works by radio and television organizations themselves; grouping and processing works by all authors producing films, documentaries and similar works,” etc.
  
-  **OGAPI:** OGAPI’s information system includes the following types of information: documents for obtaining patents for inventions, utility models, certificates of addition or plant variety certificates; certificates of addition, trade names, trademarks, industrial designs and geographical indications; applications for industrial property rights prior to submittal to OAPI and issuance of the provisional receipt; acts for the issuing of industrial property rights; protection



and promotion of inventions, innovations and creations in the field of industry; applications for industrial property rights, utility models and certificates of addition, protection of geographical indications and plant variety certificates; and examination of applications before submittal to OAPI, etc.

 **ANINF:** The *ISO 3166-1 “GA”* country code was created to represent Gabon. The GA domain was first delegated in 1994 to the RIPE Network Coordination Centre. In 1998, the domain was redelegated to the Office of Post and Telecommunications (OPT) of the Gabonese Republic. The sponsoring body for the GA domain was changed in 2004 to Gabon Telecom, reflecting the split of the OPT into separate postal and telecommunications divisions.

In 2007, Gabon Telecom was privatized. The applicant stated that, as a result of the privatization and the resulting restructuring, the development of the GA register operations was not Gabon Telecom’s first priority. This required the transfer of the management of the GA domain.

On January 27, 2011, the National Agency for Digital Infrastructures and Frequencies (ANINF) was created by Presidential Decree No. 0212/PR as a public administrative body. ANINF is made up of the National Agency for Information Technology, the National Agency for Information and Communication Technology and the Telecommunications Regulatory Agency. Its role is to “ensure the setting up and management of infrastructure and shared national resources in the telecommunication, audiovisual and computer fields” and “to manage the Internet domain of Gabon.”

In January 2012, ANINF became involved in the management of the GA domain and began managing all new domain registrations under it. An advisory group was established to ensure that the policies and projects of ANINF serve the community in Gabon. Stakeholders are invited to participate and give their feedback at group meetings, which should be held at least three times a year. The first meeting of the group was held in Libreville on September 11, 2012.

On November 15, 2012, ANINF filed an application with ICANN for reassigning the GA top-level domain. The National Agency for Digital Infrastructures and Frequencies (ANINF) was proposed as the sponsoring organization. The top-level domain is eligible for continued delegation under ICANN policy, as it is the two-letter ISO 3166-1 code delegated to represent Gabon. Gabon’s Ministry of the Digital Economy, Communication and Post backed up the request for redelegation of the domain . Additional statements in support of this redelegation were provided by SOS Consommateurs (a consumer advocacy group), DIGICOM (a local ISP) and the Institut de Recherches Initiatique et Nominale Avancées (IRINA, a non-governmental organization). The application complies with the applicable local laws known in Gabon. The proposed sponsoring organization is committed to operating the domain in a fair and equitable manner.


It can be noted that ANINF is the major player in digital technology in Gabon, and it has adopted an Information System National Master Plan (SDNSI). ANINF has a right of oversight on all projects of the digital economy. As such, it validates all projects in this field to ensure the overall consistency of the information systems implemented. This master plan determines the following:

- a transformation trajectory for the information system so that it reaches the defined target;
- the resources that must be mobilized by the Gabonese State to follow this trajectory;
- the principles of governance of the information system based on

international standards.

The SDNSI acts as a planning tool to ensure the overall consistency of the information system of the Gabonese administration. ANINF implements good-quality basic communication infrastructure and an integrated, secure, shared and efficient multi-sectoral information system. This planning tool includes a model information system, with seven components including user-relationship management, collaborative functions, core business, support functions, steering, budget and accounting management, and standards. ANINF carried out an analysis of the existing situation in 2011, enabling it since its creation to identify more than 40 operational and technical projects. The SDNSI should bring about visible changes both in the work of government personnel and in the services provided to users in all sectors of the administration. The SDNSI will ultimately enable the following actions:

- widespread deployment of basic IT tools (messaging, administration Intranet portal, etc.);
- modernization of public management (framework appropriations law, HRIS, etc.);
- implementation of new management and decision-making tools;
- computerization of major State repositories (civil status register, land register, register of legal persons, etc.);
- computerization of essential processes (management of administrative procedures, consolidation or ex nihilo creation of sector-based tools, etc.);
- development of an e-administration platform aimed at private users and professionals, with suitable mechanisms for isolated or disadvantaged populations.

 **AGANOR:** AGANOR's purpose is to create and issue collective certification marks and quality labels. A *trademark* is a sign (word, logo, image, numbers, etc.) that makes it possible to distinguish the goods or services manufactured or provided by an organization (a business, company, association, etc.) from those of other organizations. A *collective trademark* is a trademark granted to products or services that meet defined quality or origin criteria (standards, technical specifications or origin). It is used collectively according to the conditions established by the owner (professional group, association, union, administration, etc.). It is issued by the owner, who can also be a manufacturer or producer. A *collective certification mark*, unlike a simple collective mark, is issued by a certification body. Its owner cannot be a manufacturer or supplier of products or services subject to the trademark. *Certification* is the provision of written assurance by a third party that a product, service, person (skill), process, or system by which an organization meets the requirements specified in a standard or technical regulation. The issuance of a certification is based on inspection, audit, analysis or testing activities.

The purpose of standardization is thus to provide reference documents of national, sub-regional or international scope, including solutions to technical or commercial problems relating to products, goods and services.

It consists of defining, according to habits, customs and available technical and financial means, the characteristics or standards of products, goods or services for the purpose of precision, simplification, quality, lower cost and competitiveness. The standard acts as reference data resulting from a reasoned collective choice and is able

to serve as a basis for the solution of a given problem. It is considered as a technical specification or any other document in lieu thereof, accessible to the public and based on the results of science, technology or experience. It defines the experiences or characteristics relating to a product, test, good or service. It covers the fields of terminology, metrology, symbols, testing, marking, labeling, packaging and services. It is to be drawn up in consultation with all the interested parties.

#### **6- What are the roles of various stakeholders in the establishment of the information system(s):**

The stakeholders in Gabon are the Government (the ministerial departments), the public and private sector, and civil society (when the State is willing to involve it).

- **who characterizes and documents GRs?**

GRs are described and set in the form of a National Strategy developed by the Technical Expert Group of the Ministry of Water and Forests, the Sea and the Environment, Responsible for the Climate Plan and Land-use Plan (hereinafter "MEFMEPCPAT"); the Food and Agriculture Organization of the United Nations; and the Working Group on Biodiversity in Central Africa (GTBAC) of the Commission on Forests of Central Africa (COMIFAC). The stakeholders are the government administration, economic operators, civil society organizations, research institutes, etc.

- **who writes down, films, records, translates and compiles TK and/or TCEs?**

The administrator responsible for presenting the national report signs the document obtained following its approval during a workshop that brings together several stakeholders including the administration, economic operators, civil society organizations, research institutes, and others. This document is then submitted to the Council of Ministers for approval by the highest authorities.

- **who administers the information system/database/register(s)?**

The information systems, databases or registers of GRs are administered by the MEFMEPCPAT through the Directorate General of the Environment and Nature Protection, which ensures the implementation of the Government's policy on the environment, nature protection and living environment. Its role in terms of nature protection is to:

- carry out studies and surveys on the state of the environment and nature, in collaboration with the bodies and other administrations concerned;
- define national indicators of ecosystem quality, in collaboration with the other administrations concerned;
- see to it that natural environments are developed and conserved;
- participate in all nature protection actions throughout the country;
- ensure the examination of any application for authorization to carry out activities in the field of nature protection;
- see to it that *genetic heritage is preserved*; and
- identify new economic resources for nature protection.

- **who can add new entries/registrations?**

New entries and new registrations are made by the Gabonese Government, through the National Agency of National Parks (ANPN); the Institute of Traditional Pharmacopoeia and Medicine (IPHAMETRA, which hosts the National Herbarium of Gabon); the Research Institute in Forest Agronomy (IRAF); the Research Institute in Tropical Ecology (IRET); the MEFMEPCPAT; the Masuku University of Science and Technology (USTM); and civil society.

- **what role do Indigenous Peoples, as well as local communities as appropriate, play?**

The role of indigenous peoples and local communities is stipulated in the Convention on Biological Diversity, which *recognizes through Article 8j that traditional knowledge plays a primary role in the conservation and sustainable use of biological diversity. In addition, the scope of Article 8j is closely linked to the issue of Access and Benefit Sharing (ABS) as this provision governs the preservation and maintenance of traditional knowledge of indigenous and local communities (ILCs). Similarly, Article 8j includes provisions that encourage the fair and equitable sharing of benefits arising from the use of such knowledge. This is why, in cases where access to GRs depends on the use of Traditional Knowledge, Innovations and Practices (TKIP).* It is thus essential that the rules that will govern ABS take into account the value of these TKIPs by requiring users to obtain, from the communities that possess those TKIPs, the authorization to use and share the benefits arising from their use. GR access and benefit sharing (ABS) refer to how genetic resources can be accessed and how users and providers can agree on the fair and equitable sharing of benefits that may result from their use. Article 15 of the CBD sets out the rules governing access to GRs and benefit sharing. These provisions are further elaborated in Articles 5, 6 and 7 of the Nagoya Protocol. Considering that ABS generates benefits for both the user and the provider, it should be codified in national legislation. Users seek GRs in order to derive a wide range of benefits, including both basic scientific research and development of commercial products. Providers offer access to these resources in return for a fair and equitable share of the benefits resulting from their use.

#### **7- Which are the principles and modalities regulating access to relevant information:**

- **who retains control of the information system?**

In each Ministry in Gabon, a Central Directorate of Information Systems has been created by decree, with the following missions:

- establish the state of investment needs in information technology and telecommunications, in consultation with the Ministry;
- monitor the implementation of capital expenditure on IT and telecommunications, in collaboration with the other competent departments of ANINF, and carry out preliminary studies and proposals for specifications initiated within the Ministry;
- implement digital and audiovisual projects according to the procedures and standards defined by ANINF;
- install basic equipment, hardware and software and ensure their maintenance; conduct a technology watch; manage the Ministry's IT equipment; supervise the deployment of IT equipment;
- administer the Ministry's systems, databases and network;
- ensure that all systems function properly and with a high level of availability; advise and assist administrations on matters relating to information systems;
- popularize ICT matters; manage and secure telecommunications infrastructure;
- provide assistance in the establishment of radio stations of any kind in order to ensure the best use of the sites available;
- monitor the technical conditions of telecommunications equipment;
- participate in *the interconnection of telephone exchanges of the administration to aggregate voice traffic and streamline the use of State communications.*

- **who is authorized to access the content?**

Article 15 (1) of the CBD recognizes “*the sovereign rights of States [...] the authority to determine access to genetic resources [...]*”. Article 15 (2) of the CBD requires each Contracting Party to “*endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties [...]*.” In relation to countries’ obligations regarding GR access, the Nagoya Protocol obliges countries to adopt measures nationally that ensure legal certainty, clarity and transparency (Article 6.3.a) and provide for fair and non-arbitrary rules and procedures (Article 6.3.b).

In response, the Central Directorate of Information Systems is placed under the authority of a Central Director. This latter is appointed by decree of the Council of Ministers, on the proposal of the Director General of the ANINF, among engineers in the IT, telecommunications, electrical engineering and audiovisual professions, who have at least five years of professional experience.

- **are there tiered levels of access to different categories of content?**

There are several levels of access to different categories of information systems content in Gabon. In each Ministerial Department, there is a Central Directorate of Information Systems (DCSI), which centralizes the content of the information of each service. However, these DCSIs are linked to the ANINF.

#### **8- What are the involvement and rights of Indigenous Peoples, as well as local communities, in the process of the establishment, functioning and management of the information system(s)?**

In order for indigenous peoples and local communities to participate in the establishment, operation and management of information systems, States must set up legal, administrative and policy measures to establish clear rules and procedures for Prior Informed Consent (PIC) and Mutually Agreed Terms (MATs), as well as for the agreement and participation of indigenous and local communities (ILCs) that hold traditional knowledge associated with GRs in the event of access to such knowledge (Articles 6.1, 6.2, 6.3, 7). The Nagoya Protocol also requires Parties to establish, on a systematic basis with all ILCs, mechanisms to inform potential users of TK associated with GRs about their obligations (Article 12.2).

#### **9- What is the legal effect of inclusion of GRs, TK and/or TCEs, as the case may be, into the information system?**

The Gabonese Government must determine rules governing access to GR-related TK resources, by developing criteria and procedures for obtaining (i) the PIC, agreement and participation of ILCs holding such TK associated with GRs and (ii) MATs. Furthermore, as part of implementing its obligations under the Protocol and in accordance with its domestic law, Gabon must determine to what extent to take into account the customary law of the ILCs and their protocols and procedures relating to the governance of TK associated with GRs, while systematically collaborating with the ILCs (Article 12). Overall, Gabon’s legal framework for the forest/environment sector includes:

- Act No. 016/2001 of December 31, 2001, on the Forest Code in the Gabonese Republic;
- Act No. 015/2005 of October 8, 2005, on the Fisheries and Aquaculture Code in the Gabonese Republic;
- Act No. 003/2007 of August 27, 2007, on National Parks;
- Act No. 002/2014 on the sustainable development policy in the Gabonese Republic;
- Act No. 007/2014 of August 1, 2014, on the protection of the environment in the Gabonese Republic; and

- Ordinance No. 019/2021 of September 13, 2021, on climate change.

### **For example, does inclusion establish IP rights?**

The legal effect of the inclusion of GRs, TK and/or TCEs in the information system does not directly establish IPRs, because access to IP is governed by rules that are not known to indigenous peoples and local communities. They need to be informed and trained if they are to have access to IP. It is also crucial to comprehend what sociocultural notions these ILCs have of IP. It is therefore essential to pursue inclusive IP policies toward these populations, by highlighting the value of holders of TK so that they protect it through law.

### **10-How are disputes resolved (for example, competing claims by more than one community to a certain body of GRs, TK or TCEs)?**

Similarly, Gabon must allow the possibility of recourse in its legal system in the event of a dispute arising from the implementation of the MATs (Article 18.2) and take measures concerning access to justice (Article 18.3). The Nagoya Protocol also provides for the development, update and use of standard contractual clauses, as well as codes of conduct, guidelines, best practices and standards for the various sectors (Article 20).

### **How are transboundary GRs, TK and/or TCEs dealt with?**

Transboundary GRs, TK and TCEs are protected and managed within the framework of regional agreements and regional institutional frameworks.

The Bamako Act (i.e., the Bangui Agreement as revised in 2015) also assigns OAPI the mission of “promoting the protection of traditional cultural expressions (Article 2.1.j). In addition, the Agreement of January 8, 1983, establishing the International Centre for the Bantu Civilizations (CICIBA) provides for the center’s Principles (Articles 1 to 3) and Objectives (Article 4) in its Title I and for its Organization (Articles 5 to 9) in Title II. Similarly, the ECCAS Decision No. 25/CEEAC/CCEG/15 of May 25, 2015, providing for the adoption of the Sub-regional Strategy on the Development and Promotion of Culture in Central Africa 2014-2020, was approved and adopted in Yaoundé by the Ministers of Culture on November 28, 2013.

### **11-Are there interoperability standards between the existing information systems in your country and other information systems or services?**

Gabon has information systems and other information systems or services in public administrations and the private sector. Interoperability is the capacity inherent to a product or system, of which the interfaces are fully known, to work with other existing or future products or systems without restriction of access or implementation. A distinction should be made between “interoperability” and “compatibility.” To put it simply, compatibility can be said to be a vertical notion by which a tool can work in a given environment while respecting all the characteristics, whereas interoperability is a transversal notion that allows varied tools to be able to communicate when we know why and how they can work together. For example, information systems do not yet work in synergy or networks, because the data from these systems are dispersed and there are not enough studies to consolidate them and ensure that they are used in the context of interoperability. The Government is in the process of implementing the e-government interface and setting standards in this sector. It is for this reason that AGANOR and ANINF were created.

## **Do these interoperability standards concern:**

### **i) data formats (e.g., XML, data fields, etc.)?**

The Interactive Forest Atlas of Gabon is a dynamic forest monitoring system that provides credible and up-to-date information on the Gabonese forest sector. Built on a GIS (Geographic Information System) platform, it is part of the implementation of the joint project under the collaboration agreement between the MEFMEPCPAT and the World Resources Institute (WRI). It seeks to inspire national policies and promote exchanges and the production of knowledge on forest ecosystems and is intended for all stakeholders in sustainable forest management. The underlying database of the Forest Atlas is maintained and updated by the MEFMEPCPAT with support from WRI. It is updated as new information becomes available and includes periodic publications that can be found in the download section.

Data from the Interactive Forest Atlas is released under the Creative Commons Attributions 4.0 public license. Users are free to copy and redistribute the material by any means and in any format, and to transform and use the material for other purposes, including commercial ones. When citing the source of the material, users are asked to include a link to the license and indicate if any changes have been made to the original material. Users must take all reasonable steps to indicate this information, without suggesting that its interpretation or use would be approved by the licensor.

### **ii) content data (e.g., characterization, function, technical use of GRs, TK or TCEs)?**

On Monday, November 14, 2022, the Ministry of the Digital Economy presided over the ceremony presenting the feasibility studies of the project for the Gabon National Digital Strategic Plan (PNSGD 2025). This project was part of the Digital Gabon sectoral plan and should make it possible to offer quality services and to promote accessibility, with the goal of more efficient administration through the implementation of e-government. The project was financed by the African Development Bank (AfDB) and led by Cabinet Evolving in collaboration with many crucial public actors, and it was able to identify the various levers for the development of an e-government platform in Gabon. Thus, these studies, which form the second component of the CAB GABON project, include six application components that should enable the digitization of government services. These include the government Internet portal and online administrative services; the information system for public administrations; interoperability and data-exchange platforms; the national digital identity system (SNID); government administration digital payment systems (DPS); and open data and/or e-participation platforms. ANINF has indicated that “all studies will be submitted to the Task Force in charge of issues of digitization of the Administration of the Transformation Acceleration Plan 2021-2023 to ensure overall consistency in the trajectory of implementation of digital technology in Gabon.”

### **iii) rights metadata (e.g., right holder, subject matter, date of documentation, etc.)?**

A study on the health system in Gabon reports that the health environment is increasingly complex, changing and restrictive, thereby justifying the need for an efficient health information system (HIS) capable of collecting, processing and analyzing quality (i.e., complete, accurate, prompt, etc.) data, and for the dissemination of information for strategic and operational steering assistance. This allows the health system to effectively monitor, evaluate and plan, etc., health actions and achieve the defined objectives. Unfortunately, due to the lack of efficient HIS, many health systems

lack quality data. According to the Global Health Observatory, 81 countries (42%) collect data of very low quality, which is an obstacle to better management of health services.

In the countries of sub-Saharan Africa, this problem is even more acute and undermines the quality of choices on health interventions. Gabon, like other countries of the South, is struggling to have quality data that are useful for guidance, the production of statistics and health monitoring. To improve this situation, in Gabon we have developed and proposed a model for a health decision-support information system adapted to countries with limited operational digital infrastructure (e.g., an insufficiently computerized hospital information system, insufficient Internet connection, insufficient use of terminology standards, etc.).

Initially, we studied the governance of the existing information system in Gabon. Our results showed there was insufficient governance of the HIS, including a weak consideration of HIS aspects in health policy in Gabon, lack of a legal framework setting the roles and responsibilities of the various actors of the system, a weak practice of data management, a fragmented information system with several non-interoperable computer applications, and a weak level of computerization of care facilities that are the main sources of data. Only 31.5% of facilities are computerized and connected to the Internet. Additionally, 70% of users are uncomfortable with this HIS and want a new information system to be set up.

Next, we examined the quality of the data produced by the existing HIS in this context. Our results showed that the data produced in this context were of low quality, with an estimated completeness of 39%. It was observed that 58% of care facilities do not record and store their data, 82% do not verify the accuracy of their data, and 56% do not analyze their data. Finally, in the light of the strengths and weaknesses identified at the HIS level, we developed and implemented a tool that plays a dual role, as a data warehouse and as a transactional database allowing data to be integrated into other platforms, for example DHIS2. The proposed tool makes it possible to collect, process, analyze data, and disseminate information at the decision-support system level in Gabon. A study to evaluate this tool showed that its use significantly improved the quality of the data in terms of completeness, timeliness and accuracy of the data compared to the old system.



**iv) structures of information systems and services (e.g., APIs, etc.)?**

“API” is the acronym for Application Programming Interface. It is a coded interface through which several applications that are not supposed to work together can interact with each other. The API exposes the data, i.e., it makes the contents accessible in a structured format. It establishes inter-application interaction protocols in order to specify the possibilities for data exchange. APIs allow teams to work on a program without having to worry about compatibility with other software. They have explanatory documentation to utilize their systems. There are two types of API:

- SOAP (Simple Object Access Protocol) APIs and
- REST (Representational State Transfer) APIs.

SOAP is a protocol for exchanging information under XML-based web services implementation. REST is a style of web services architecture that operates as a chain of communication between different systems and the Internet. REST is used mainly to implement modern APIs.

However, in Gabon, our information systems are not yet interconnected, and the API is not very developed in our administrations. This explains the reforms that are being implemented by the Gabonese Government. In the private sector, APIs are used because some industries need them for efficiency.

**12-Do you have any other views or experiences relating to the establishment, functioning and management of information systems?**

It should be noted that TK about traditional habits and customs is not often codified. As a result, data relating to the creation, operation and management of traditional information systems are based on implicit spiritual or personal knowledge of the social organization of a given community. Understanding the management of this type of traditional information system requires traditional initiation for in-depth understanding of how it works.

For example, it is important to understand that there are no precise terms among the Babongo and Nzebi to translate the concept of intellectual property. The reason is that, among these peoples, this notion is linked to traditional and spiritual knowledge. For these peoples, IP is likened to the secrecy of the cultural practices that structure their interactions with their environment. That is why the preservation of natural ecosystems plays a fundamental role for indigenous peoples.

Similarly, registration systems for TK and modern TCEs do not take into sufficient account the specific knowledge of ILCs. In Gabon, there is no real inclusive IP policy. The institutions and the legal framework exist, but royalties are not always paid. There is a clear lack of involvement by ILCs in the registration of their traditional knowledge. In addition, holders of TK in Gabon do not know what IP is and, more often than not, are illiterate. This is why TK dies with its holders.

The other aspect concerns the cost of registration and declarations of works. In Gabon, the registration of a work at the Gabonese Copyright Office (BUGADA) is **5,000 CFA francs** and the project is **150,000 CFA francs**. At the Gabonese Industrial Property Office (OGAPI), registration of trademarks costs **5,000 CFA francs** for individuals and **150,000 CFA francs** for associations. These costs are very high for a non-profit organization such as ADACO, which relies on donations and bequests and does not receive any grants from the Gabonese Government. How can we register this disappearing TK if we are not helped?

**13-Do you have any suggestions for future work under the auspices of the WIPO IGC and/or by the WIPO Secretariat on these issues?**

Our suggestions are as follows:

- Each State should set up an inclusive legal framework for the protection of TK and its rights holders.
- Strengthen systems for the inventory and registration of TK and TCEs.
- Give indigenous peoples the opportunity to know what IP is by supporting organizations that defend their cultural rights.
- Propose and codify traditional protocols for the preservation and registration of TK between the State and the communities concerned.
- Cultural and IP institutions should be more inclusive, by involving indigenous peoples' associations and indigenous people themselves in the drawing up of public policies related to IP and the enhancement of the cultural heritage of each country.
- Fully regulate the Protection of New Varieties of Plants through the TRIPS Agreement.
- Propose a regulatory framework for the protection of TK and TCEs under the TRIPS Agreement.
- Strengthen discussions with the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), UNESCO, WTO, OAPI and ARIPO, while building on ARIPO's establishment of the Swakopmund Protocol to provide special and unique protection for TK and TCEs.

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