



Statement by

Honourable Pohamba Shifeta

Minister of Environment and Tourism, MP

**THE INTRODUCTION OF THE ACCESS TO GENETIC
RESOURCES AND ASSOCIATED TRADITIONAL
KNOWLEDGE BILL (ABS BILL) TO THE NATIONAL
ASSEMBLY**

November 2015

Windhoek

Honorable Speaker

Honorable Members of this August House

I rise before this August House to introduce one of the most long awaited and important pieces of legislation in our collective efforts to ensure the sustainable utilization of our biological resources. Namibia is widely regarded as a leader when it comes to biodiversity conservation and the sustainable utilization of natural resources. The protection of Namibia's biological diversity is a constitutional imperative provided for in Article 95. Namibia is also a Party to the Convention on Biological Diversity (CBD) since 1997 and ratified the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in May 2014.

I am therefore pleased to introduce this Bill on Access to Genetic Resources and Associated Traditional Knowledge, also referred to as the "ABS Bill".

Honorable Members

The Access to Genetic Resources and Associated Traditional Knowledge Bill, aims at the following:

- To regulate access to genetic resources and associated traditional knowledge based upon prior informed consent;
- To protect local communities' rights over traditional knowledge in respect thereof;
- To promote a fair and equitable mechanism for benefit sharing;
- To establish the necessary administrative structures and processes to implement and enforce such principles; and
- To provide for matters connected thereto.

This Bill is a product of a lengthy consultative process and tremendous efforts in terms of negotiations and debates both at national as well as international levels.

Honorable Speaker

Honorable Members

1. Allow me to give a brief history, which led to the birth of the ABS Bill

At the heart of the international community rests a growing recognition that biological diversity is a global asset of tremendous value to present and future generations. However it must be acknowledged that the conservation and sustainable utilization of biodiversity needs to deliver greater benefits to our communities, both monetary and non-monetary.

Eighteen years after the establishment of United Nation Convention on Biological Diversity (CBD), the 193 Parties to the CBD finally adopted the Nagoya Protocol in October 2010 in Nagoya, Japan. This Protocol provides a transparent legal framework for the effective implementation of the third objective of the CBD, which is the “fair and equitable sharing of benefits arising from the use of genetic resources”.

On 12 October 2014, the Protocol finally came into force, and it is now up to member States to take the necessary steps to ensure its full implementation.

Honorable Speaker

Honorable Members

2. What has Namibia done so far, in terms of regulating the ABS associated with genetic resources?

The drafting of a domestic legislation on ABS was pursued after the adoption of the CBD and long before the Nagoya Protocol. However the actual steps to initiate the process of enacting a domestic law came into play during the negotiation of the Nagoya Protocol. The idea was to develop our domestic law in harmony with the Nagoya Protocol, which required us to wait for the adoption of that Protocol.

As an interim measure in 2007, the Cabinet established the Interim Bioprospecting Committee (IBPC) comprising of members from different Ministries. Since then, Namibia has relied on this Committee to regulate bio-trade and bioprospecting activities in the country with specific reference to access genetic resources and associated traditional knowledge.

From 2010 to 2011, after the adoption of the Nagoya Protocol, the Ministry of Environment and Tourism re-started the process to develop our domestic legislation. This involved a rigorous regional and national level consultative process. This period marked what I would like to personally refer to as ‘the actual birth of the ABS Bill’.

3. The objective of and core obligations under the Nagoya Protocol

The Nagoya Protocol acts as a framework on how to provide access to genetic resources for both research and commercial applications and on how to ensure compliance with the resulting agreements between providers and users. The Protocol sets out core obligations for its Contracting Parties to take measures in relation to three main categories namely; access to genetic resources, benefit-sharing and compliance obligations. The ABS Bill makes provision for fulfilling these obligations.

Honorable Speaker

Honorable Members

The CBD recognizes that States have sovereign rights over biological resources, but also calls on governments in Article 8(j) to respect, preserve and maintain the knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.

The ABS Bill makes provision for the protection of traditional knowledge, the implementation of the principle of acquiring prior informed consent from indigenous communities with such traditional knowledge prior to accessing such resources, and provision for adequate compensation when products are commercialized.

This Bill further makes provision for the traditional knowledge associated with genetic resources in addressing issues related to access, benefit-sharing and compliance, where local communities have the established right to grant access to them. The need to adhere to community laws and procedures as well as customary use and exchange (also referred to as community protocols) is also recognized in the Bill.

Honorable Speaker

Honorable Members

4. Why do we need a domestic regulatory framework in place?

As providers of genetic resources, our rural communities continue to be vulnerable to exploitation due to the lack of legal mechanisms to protect them in terms of access to their genetic resources. Moreover, this situation of legal uncertainty as is currently prevalent in Namibia creates harmful conditions in the relevant business transactions and is exacerbated by an unequal relationship between providers and users in terms of expertise and knowledge. This status necessitates legal mechanisms to regulate how companies and research institutions can access Namibia's genetic resources and its associated traditional knowledge.

The enactment of the ABS law and related regulatory mechanisms will result in a proper legal certainty to adequately regulate access to genetic resources and its associated traditional knowledge. It will also ensure that communities receive fair and equitable benefits arising from the use of these genetic resources.

Lastly, the fair and equitable distribution of benefits to communities will contribute to poverty eradication and value addition and assist Namibia to reach Vision 2030.

Honorable Speaker

Honorable Members

5. Allow me to illustrate how the ABS Bill addresses linkages to Poverty reduction and sustainable development

The importance of biodiversity for poverty eradication cannot be overstated. The sustainable use of biodiversity provides us with an important opportunity to help achieve broader social and economic goals and to address many of the current challenges and concerns for the future in proactive and coherent ways.

The potential benefits from biodiversity are especially important to the poor and to vulnerable groups. Biodiversity within species, between species and of ecosystems is crucial to poverty alleviation and development. For example, our biodiversity is the basis of our tourism industry and is a leading source of employment and livelihood for our rural communities. It also has excellent prospects for future growth.

Honorable Members

As you may know, Namibia has also been exploring innovative approaches to develop an industry around the sustainable supply and trade of indigenous natural plant products. This approach has brought products from six indigenous plants to the international market, while several other products are at various stages of development (Inara oil; mopane essential oil; marula food oil, juice and fruit pulp; terminalia root bark; manketti fruit; and makalani fruit).

Skills development, technology transfer, value addition, improved market access, the establishment of testing centres and beneficiation for local people are important cornerstones to increase the contribution of our biodiversity resources to our economy through manufacturing in line with our growth at home strategy. Clearly, there is a need for Namibia to research, process, and develop its own products locally in order to increase the benefits of communities through job creation. Consequently, this has prompted the MET to investigate the possibility of developing a Research and Development Center for indigenous natural products in Namibia. The feasibility study for this center has been completed.

Through the Resources Genetic Unit envisaged under this Bill, the research and product development will be promoted and coordinated to ensure that benefits for our communities are optimally enhanced.

6. In Conclusion, Honorable Speaker, Honorable Members,

Namibia is endowed with indigenous natural products with high potential for beneficiation. The development of a critical path for the sustainable commercialization of our indigenous natural products will be of benefit to the entire Namibian economy. This requires a good regulatory framework to ensure that these products penetrate the market with fair and equitable benefit sharing to the owner of these resources, which are often local communities in the context of Namibia.

It is our local communities that need benefits from their local resources. It is our local communities that possess traditional knowledge. It is our local communities that need protection against over-harvesting, outside exploitation of resources and unfair treatment by external users of these resources.

The present Bill will form the basis for Namibia's legal framework for potential future benefit sharing agreements and other mechanisms to ensure that traditional communities receive recognition for their traditional knowledge and gain a fair share from the commercialization of products based on such knowledge.

Therefore, this Bill is a measure to ensure that our communities get maximum benefits arising from their genetic resources and associated traditional knowledge.

With these few words, may I now ask this August House to support this Bill, **“ACCESS TO GENETIC RESOURCES AND ASSOCIATED TRADITIONAL KNOWLEDGE BILL”**.

I thank you for your support of this Bill.