

REPUBLIQUE DU CAMEROUN

Paix – Travail – Patrie

REPUBLIC OF CAMEROON

Peace – Work – Fatherland

DECREE N°.

2023 / 07526

/PM OF

06 OCT 2023

TO LAY DOWN THE CONDITIONS OF IMPLEMENTATION OF LAW N°. 2021/014 OF 9 JULY 2021 GOVERNING ACCESS TO GENETIC RESOURCES, THEIR DERIVATIVES, ASSOCIATED TRADITIONAL KNOWLEDGE AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR USE.-

THE PRIME MINISTER, HEAD OF GOVERNMENT

- MINDFUL OF** the Constitution;
- MINDFUL OF** the Convention on Biological Diversity, adopted on 22 May 1992 and ratified on 19 October 1994, and its Nagoya Protocol, adopted on 29 October 2010 and ratified on 30 November 2016;
- MINDFUL OF** the International Treaty on Plant Genetic Resources for Food and Agriculture adopted on 29 June 2004;
- MINDFUL OF** the Bangui Agreement establishing the African Intellectual Property Organization, Act of 24 February 1999 amended by the Act of 14 December 2015;
- MINDFUL OF** Law No. 64/LF/23 of 13 November 1964 on the protection of public health;
- MINDFUL OF** Law No. 94/01 of 20 January 1994 governing forestry, wildlife and fisheries;
- MINDFUL OF** Law No. 96/12 of 05 August 1996 on the framework law for environmental management;
- MINDFUL OF** Law No. 98/005 of 14 April 1998 on the water regime;
- MINDFUL OF** Law No. 2000/017 of 19 December 2000 regulating veterinary health inspections;
- MINDFUL OF** Law No. 2003/003 of 21 April 2003 on plant health protection;
- MINDFUL OF** Law No. 2003/006 of 21 April 2003 on the safety regime for modern biotechnology in Cameroon;
- MINDFUL OF** Law No. 2018/012 of 11 July 2018 on the Financial Regime of the State and other public entities;
- MINDFUL OF** Law No. 2021/014 of 9 July 2021 governing Access to Genetic Resources, their Derivatives, Associated Traditional Knowledge and the Fair and Equitable Sharing of Benefits arising from their Use;
- MINDFUL OF** Decree No. 92/089 of 4 May 1992 specifying the powers of the Prime Minister, as amended and supplemented by Decree No. 95/145-a of 4 August 1995;
- MINDFUL OF** Decree No. 2011/408 of 09 December 2011 on the organisation of the Government, as amended and supplemented by Decree No. 2018/190 of 02 March 2018;

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MINDFUL OF Decree No. 2019/001 of 4 January 2019 to appoint a Prime Minister, Head of Government,

HEREBY DECREES AS FOLLOWS:

CHAPTER I
GENERAL PROVISIONS

SECTION I
PURPOSE AND SCOPE

ARTICLE 1.- This decree sets out the terms and conditions for access to genetic resources, their derivatives and associated traditional knowledge and for the fair and equitable sharing of benefits arising from their use.

ARTICLE 2.- The provisions of this decree apply to:

- a) access to genetic resources of plant, animal, microbial or other origin, containing functional units of heredity, collected on national territory ;
- b) access to associated traditional knowledge, including that held by individuals or indigenous peoples and local communities ;
- c) the transfer of genetic resources, associated traditional knowledge and research results to third parties for development or commercial purposes;
- d) international cooperation and cross-border aspects relating to genetic resources;
- e) the current use of genetic resources, their derivatives and/or previously acquired traditional knowledge;
- f) conservation of genetic resources.

SECTION II
DEFINITIONS

ARTICLE 3.- For the purposes of this decree, the following definitions shall apply:

Cutting: action of removing forest cover in order to harvest, improve and regenerate the stand;

Control point: Authority responsible for monitoring and controlling the use of Cameroon's genetic resources inside and outside the country;

Harvesting: all the agricultural work involved in collecting plants by picking, mowing or uprooting and transporting them for storage before processing;

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Multilateral system: a system that creates opportunities so that laboratories in developed countries with technical know-how can build on what farmers in developing countries have achieved on their land.

CHAPTER II
GENERAL CONDITIONS OF ACCESS

SECTION I
ACCESS TO GENETIC RESOURCES AND THEIR DERIVATIVES

ARTICLE 4.- (1) Access to genetic resources and their derivatives is subject to the granting of Prior Informed Consent by the Competent National Authority, after the National Committee on Access and Fair and Equitable Sharing of Benefits has given its assent.

(2) The application for Prior Informed Consent referred to in paragraph 1 above shall be filed with or electronically transmitted to the Competent National Authority against a receipt or acknowledgement of receipt. It shall include the following documents:

- a stamped application at the rate in force and addressed to the Competent National Authority;
- a duly filled form;
- a legalized photocopy of the National Identity Card dated less than three (03) months for nationals;
- a certified photocopy of the passport dated less than three (03) months old for foreigners;
- legalisation documents for corporate bodies;
- the research permit issued by the authority responsible for research;
- the detailed project document;
- a certificate of registration;
- a receipt for payment of the application fee issued by the public treasury or by the collector responsible for the area concerned.

ARTICLE 5.- (1) The Competent National Authority has a period of six (06) months from the date of filing or transmission to act on the request referred to in Article 4(2) above.

(2) If the application is rejected, the decision containing the reason(s) for the rejection is notified to the applicant.

(3) If the application has not been processed within the time limits set out in paragraph 1 above, the Prior Informed Consent shall be deemed to have been granted, unless the Competent National Authority has notified the applicant in writing, stating the reasons, of the extension of the time limit for examining the application, which may not be longer than the initial time limit.

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ARTICLE 6.- (1) Prior Informed Consent enables the holder to enter into negotiations to conclude Mutually Agreed Terms and Conditions with suppliers.

(2) The Prior Informed Consent is valid for a period of one (01) year. It is renewable under the same conditions as those set out in articles 4 and 5 above.

ARTICLE 7.- Under the supervision of the Competent National Authority, the conclusion of the Agreed Terms of a Common Agreement depends on a negotiation between the holder of the Prior Informed Consent on the one hand and the indigenous population or the local community concerned by the genetic resource or its derivatives on the other.

ARTICLE 8.- (1) Following an inventory of genetic resources, the National Competent Authority shall draw up, by order, a list of species containing genetic resources that are of particular interest..

(2) The list provided for in paragraph 1 above shall be updated as necessary by the Competent National Authority..

(3) The use of species on the list provided for in paragraph 1 above shall be subject to obtaining an ABS permit.

ARTICLE 9.- Any change of use requires a new Prior Informed Consent in writing. In this case, the conditions of such use are subject to separate Mutually Agreed Terms between the parties concerned and the third parties involved.

SECTION II **ACCESS TO ASSOCIATED TRADITIONAL KNOWLEDGE**

ARTICLE 10.- (1) Any indigenous people or local community with traditional knowledge associated with genetic and biological resources shall establish a Community Biocultural Protocol.

(2) The Community Biocultural Protocol shall be drawn up on the basis of a framework drawn up and made available by the competent national authority.

(3) The Community Biocultural Protocol provides a basis for negotiating the Agreed Terms of a Common Agreement on access to associated Traditional Knowledge.

ARTICLE 11.- (1) Access to the associated traditional knowledge referred to in article 10 above shall be subject to a request being made to the indigenous population or local community concerned through the competent National Authority, after receiving the assent of the National ABS Committee.

(2) The application referred to in paragraph 1 above shall be submitted in a manner appropriate to the lifestyle and culture of the indigenous population or

community identified, and in particular in a language that it understands. The application may be submitted in written or audio form.

(3) The application for access to traditional knowledge associated with genetic and biological resources must be accompanied by the following documents:

- a stamped application at the rate in force, addressed to the Competent National Authority;
- a duly filled form;
- a certified photocopy of the National Identity Card of the legal representative of the corporate body;
- a legalized photocopy of the National Identity Card dated less than three (03) months for nationals;
- a certified photocopy of the passport dated less than three (03) months old for foreigners;
- legalisation documents for corporate bodies;
- the authorisation or research permit required by the regulations in force;
- the detailed project document;
- a certificate of registration;
- a receipt for payment of the application fee issued by the public treasury or by the collector responsible for the area concerned.

SECTION III **MUTUALLY AGREED TERMS**

ARTICLE 12.- (1) Under the supervision of the Competent National Authority, the indigenous populations or the local communities, holders of genetic or biological resources and traditional knowledge associated with genetic resources shall negotiate and sign Mutually Agreed Terms with the applicant.

(2) The signing of Mutually Agreed Terms shall provide direct access, for the applicant, to genetic resources, biological resources or traditional knowledge associated with genetic resources.

ARTICLE 13.- (1) The Mutually Agreed Terms shall serve as contract between the indigenous populations or the local community and the applicant.

(2) The Mutually Agreed Terms shall contain the following elements:

- Identity and title of signatories;
- Genetic resources sought;
- Quantity of genetic resources sought;
- Duration;
- Compensation, monetary or non-monetary;
- Terms and conditions of the compensation considered;

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- Method of settling disputes;
- Terms on third party use;
- Intellectual property rights;
- The terms and conditions for the conservation and sustainable use of the resource;
- Adaptation clauses.

(3) The contract referred to in Paragraph 1 above shall be signed on behalf of the State by the Minister in charge of the Environment and on behalf of others by their legal representative.

(4) The template of the contract provided for in Paragraph 1 above shall be established by a particular instrument of the Minister in charge of the Environment.

ARTICLE 14.- The applicant and the indigenous populations or local communities shall mutually negotiate terms for the management and sharing of intellectual property rights under the supervision of the Competent National Authority.

ARTICLE 15.- The intellectual property rights referred to in Article 13 above shall contain the following elements:

- Information on the goal, risks and applications for use of collective knowledge as well as their value;
- Regular situation reports on research, where necessary;
- Industrialization and commercialization of products arising from the use of traditional knowledge associated with genetic resources;
- Information on the holder and owner of intellectual property rights;
- The clause on the sharing of revenue arising from the use of intellectual property rights;
- Capacity building for indigenous populations and local communities to enable them use their traditional knowledge associated with genetic resources.

SECTION IV **ABS PERMIT**

ARTICLE 16.- (1) Any holder of a Prior Informed Consent and Mutually Agreed Terms shall be issued an ABS Permit by the Competent National Authority upon request.

(2) The Competent National Authority shall forward copies of the Prior Informed Consent, Mutually Agreed Terms and the ABS Permit to the National Information Sharing Clearance House for popularization.

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CHAPITRE III
SPECIFIC TERMS FOR ACCESS

SECTION I
TERMS APPLICABLE TO RESEARCH, BIOPROSPECTING AND GENETIC
INFORMATION PROFESSIONALS

ARTICLE 17.- (1) Professionals of fundamental research or development programmes belonging to the national research system, shall not be required to request for prior informed consent.

(2) Professionals referred to in Paragraph 1 above shall declare their project at the Competent National Authority. The declaration mainly shows that the goal of the project is to:

- generate new scientific knowledge from the genetic resource;
- search for the genetic structuring of biological resources related to specific functions;
- promote the conservation and sustainable use of biological diversity;
- enable appreciation of the value and diversity of genetic resources.

(3) The declaration referred to in Paragraph 2 above shall comprise the following documents:

- a duly filled access request form;
- a certified copy of the national identity card;
- proof of belonging to the national research system;
- a certificate of registration;
- a document describing the project.

(4) The advantage of the declaratory scheme provided for in Paragraph 2 above may be rejected by decision of the Minister in charge of the Environment, following approval from the ABS National Committee, in case the professional is using it for objectives and purposes contrary to those laid out in this decree.

ARTICLE 18.- (1) The Competent National Authority shall have a period of sixty (60) days as of the date of submission of the file to make a pronouncement following approval from the ABS National Committee.

(2) In case the Competent National Authority is silent within the deadline provided for in Paragraph 1 above, the declaration shall be presumed to have been received.

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ARTICLE 19.- Without prejudice to the rights of the researcher, results emanating from basic research and development programmes shall be the property of the entity within which the research was conducted.

ARTICLE 20.- In the event where the use of results of basic research and development programmes are destined for export, professionals of basic research or development programmes shall be bound to request for the ABS Permit.

ARTICLE 21.- Professionals of basic research and development programmes who solicit access for bioprospecting purposes shall be bound to apply for the issuance of an ABS Permit.

ARTICLE 22.- The genetic information obtained following basic research or development programmes shall be free from all use except for commercial purposes.

ARTICLE 23.- Intellectual property rights on genetic information obtained following basic research or development programmes shall be governed by the regulations in force.

SECTION II

ACCESS TO PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

ARTICLE 24.- (1) Access to plant genetic resources for food and agriculture mentioned in Annex 1 of the International Treaty on Plant Genetic Resources for Food and Agriculture shall be agreed on in compliance with the Standard Material Transfer Agreement and the Standard Material Transfer Agreement of the Multilateral System and with the Multilateral System of Access and Benefit-sharing.

(2) An order of the Minister in charge of Agriculture shall fix the terms and conditions for access to plant genetic resources referred to in Paragraph 1 above.

ARTICLE 25.- Access to plant genetic resources for food and agriculture destined for chemical or pharmaceutical use or other non-food and non-fodder industrial uses shall be subject to the terms and conditions for obtaining the ABS Permit.

SECTION III

EMERGENCY SITUATIONS

ARTICLE 26.- (1) In the event of current or imminent emergency situations which threaten or damage human, animal or plant health and food security, declared by the Competent National Authority, access to genetic resources and their derivatives, traditional knowledge associated with genetic resources shall be facilitated.

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(2) The organizations or entities to which the researcher belongs shall inform the Competent National Authority of emergency situations they may be aware of.

(3) The Competent National Authority, in the situations referred to in Paragraph 1 above, shall take appropriate decisions to accelerate access to genetic resources and their derivatives as well as traditional knowledge associated with genetic resources.

(4) Access shall be granted by the Competent National Authority upon presentation of any document attesting to an emergency situation.

(5) Genetic resources or traditional knowledge associated with genetic resources, subject of the access authorization granted in emergency situations such as provided for in Paragraph 1 above, shall not be used for any other purpose other than that required to manage the emergency situation referred to in the request for authorization.

(6) The user and the supplier, in the situations referred to in Paragraph 1 above, shall speed up the fair and equitable sharing of benefits arising from the use of genetic resources, their derivatives and the traditional knowledge associated with genetic resources, including access to treatment at affordable costs.

ARTICLE 27.- (1) In the case provided for in Article 26 above, access to genetic resources, to knowledge associated with genetic resources for research purposes and for food security shall be free for researchers belonging to the national research system.

(2) Researchers shall be bound to inform the Competent National Authority.

(3) Access shall be granted by the Competent National Authority by virtue of Paragraph 1 above without presentation cost upon presentation of all documents showing proof of an emergency situation.

CHAPTER IV
BENEFITS ARISING FROM THE USE OF GENETIC RESOURCES, THEIR
DERIVATIVES AND TRADITIONAL KNOWLEDGE ASSOCIATED WITH GENETIC
RESOURCES

ARTICLE 28.- The benefits arising from the use of genetic resources and the traditional knowledge associated with genetic resources may be monetary and/or non-monetary.

ARTICLE 29.- The monetary benefits shall mainly comprise:

- access rights/rights per sample collected or acquired otherwise;
- initial payments;
- milestone payments;

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- royalty payment;
- licence rights in case of marketing;
- special fees to be paid to trust funds for the conservation and sustainable use of biological diversity;
- salaries and preferential terms, if mutually agreed;
- research funding;
- joint ventures;
- joint ownership of relevant intellectual property rights.

ARTICLE 30.- Non-monetary benefits shall include the following:

- sharing of research and development results;
- collaboration, cooperation and contribution to scientific research and development programmes, including biotechnological research activities;
- participation in product development;
- collaboration, cooperation and contribution to education and training;
- access to facilities for ex-situ conservation of genetic resources and databases;
- knowledge and technology transfer on concessional and preferential terms to the genetic resource provider, whenever mutually agreed, in particular knowledge and technology, which is relevant to the conservation and sustainable use of biological diversity;
- capacity building for technology transfer;
- institutional capacity building;
- human and material resources to strengthen capacities for the administration and enforcement of access regulations;
- training on genetic resources;
- access to scientific information relevant to the conservation and sustainable use of biological diversity, including biological inventories and taxonomic studies;
- contributions to the local economy;
- research directed towards priority needs, such as livelihood, food security and health;
- institutional and professional relationships between the provider and the user;
- social recognition;
- joint ownership and intellectual property rights.

ARTICLE 31.- (1) Each beneficiary population shall have an account in a first class financial institution for housing the funds received as monetary benefits arising from the Mutually Agreed Terms on traditional knowledge associated with genetic resources.

(2) The funds referred to in paragraph 1 above shall be public funds and shall be used in particular for the social, economic and cultural development of the beneficiary population and for the conservation of biological diversity.

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ARTICLE 32.- Non-monetary benefits shall be managed to benefit the beneficiary population.

ARTICLE 33.- The beneficiary population shall set up a system for archiving the Mutually Agreed Terms.

CHAPTER V **FINANCIAL PROVISIONS**

ARTICLE 34.- Any application for ABS Permits for the export of samples for commercial purposes shall be supported by a receipt of payment of study fees to the National Environment and Sustainable Development Fund amounting to CFAF two hundred thousand (200 000) for natural persons and CFAF five hundred thousand (500 000) for legal entities.

ARTICLE 35.- Any application for the transfer of research findings for commercial purposes shall be supported by a receipt of payment of study fees to the National Environment and Sustainable Development Fund amounting to CFAF two million (2 000 000).

ARTICLE 36.- Applications subject to the declaration regime shall be exempt from the study fees provided for in Articles 34 and 35 above.

CHAPTER VI **MONITORING OF THE USE OF GENETIC RESOURCES AND THEIR DERIVATIVES**

ARTICLE 37.- (1) Any user of a genetic resource shall present the ABS Permit at every checkpoint, especially that responsible for the environment.

(2) Failure to present the ABS permit shall expose the offender to the penalties provided for by the laws and regulations in force.

ARTICLE 38.- Indigenous populations and local communities shall report to the nearest territorially competent authorities, in particular those responsible for the environment:

- any illegal use of their genetic resources or associated traditional knowledge;
- failure to comply with any of the clauses of the Mutually Agreed Terms.

ARTICLE 39.- Any proven report shall be investigated.

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ARTICLE 40.- The parties to the Mutually Agreed Terms shall provide the Competent National Authority with an annual report on the state of performance of their contract.

ARTICLE 41.- The user shall provide the National Competent Authority with financial statements, especially the annual balance sheet, relating to the monetary and non-monetary benefits derived from the use of a resource or associated traditional knowledge.

ARTICLE 42.- The leader of the indigenous population or local community that is a party to the Mutually Agreed Terms shall provide the Competent National Authority with an annual report on the status of the biological resource and the monetary and non-monetary benefits derived from access to the said resource or associated traditional knowledge.

ARTICLE 43.- (1) The Competent National Authority shall keep a database of associated traditional knowledge comprising:

- public data on the collective knowledge of indigenous populations or local communities;
- confidential national data on the traditional knowledge of indigenous populations or local communities. This database shall include traditional knowledge of the holders or of a specific local community;
- local data on the collective knowledge of indigenous populations or local communities.

(2) Access to traditional knowledge in the database referred to in paragraph 1 above shall be subject to Prior Informed Consent for foreign users.

ARTICLE 44.- (1) The indigenous populations or local communities, the holders, as the case may be, shall register their associated traditional knowledge with the Competent National Authority by submitting an application file including:

- an application stamped at the current rate;
- an associated traditional knowledge registration form duly filled;
- a copy of the national identity card for holders or a collective agreement from the indigenous populations or local communities.

(2) The Competent National Authority shall issue a registration certificate once the information provided by the applicant has been processed.

(3) The applicant shall be notified of the reasons for any rejection of the application referred to in paragraph 1 above.

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ARTICLE 45.- The Competent National Authority shall have thirty (30) days from the date of submission of the application to issue the registration certificate provided for in Article 44 above.

ARTICLE 46.- (1) Any researcher not belonging to the national research system and who owns a genetic resource, whatever its origin, in collaboration with a laboratory belonging to the national research system, shall be required to present their ABS Permit to the host laboratory.

(2) The host laboratory shall provide the Competent National Authority with an information sheet, duly filled by the researcher referred to in paragraph 1 above.

(3) The standard template of the information sheet referred to in paragraph 2 above shall be defined by a specific instrument issued by the Minister of Environment.

ARTICLE 47.- The ABS National Committee shall provide the public with a toll-free number to report cases of suspicious ownership of genetic resources or illegal use of associated traditional knowledge.

CHAPTER VII **CONFIDENTIALITY AND DISCLOSURE**

ARTICLE 48.- (1) The parties shall ensure the confidentiality of any information, in particular scientific and technical information, disclosed to them in connection with the implementation of the user's project.

(2) Notwithstanding the provisions of paragraph 1 above, confidential information may be disclosed in accordance with the laws and regulations in force.

(3) The user shall undertake not to publish, or make public, information on genetic resources and associated traditional knowledge without the prior written authorization of the provider.

CHAPTER VIII **ADVISORY ASSISTANCE**

ARTICLE 49.- (1) The State and its decentralised bodies shall provide, at the request of research, bioprospecting and genetic information professionals, support and advice to indigenous peoples and local communities on the fair and equitable sharing and use of benefits arising from genetic resources, their derivatives and associated traditional knowledge.

(2) Advisory assistance shall involve providing advice, opinions, suggestions and information relating to access to genetic resources, their derivatives,

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associated traditional knowledge and the fair and equitable sharing of benefits arising from their use.

(3) Advisory assistance shall be automatically provided where research, bioprospecting or genetic information could adversely affect genetic resources, their derivatives or the traditional knowledge associated with genetic resources of indigenous peoples or local communities and their dignity.

CHAPTER IX
FINAL PROVISION

ARTICLE 50.- The Minister of Environment, Nature Protection and Sustainable Development shall be responsible for the enforcement of this decree, which shall be registered, published according to the procedure of urgency, and inserted in the Official Gazette in English and French.

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Joseph DION NGUTE
PRIME MINISTER,
HEAD OF GOVERNMENT