

Legal frameworks and mechanisms for public participation in decision-making processes regarding LMOs in Africa: An analysis of approved national biosafety frameworks

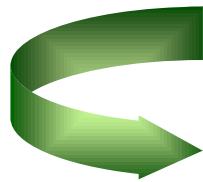
**CARTAGENA
PROTOCOL
ON
BIOSAFETY
TO THE
CONVENTION
ON
BIOLOGICAL
DIVERSITY**

TEXT AND ANNEXES



Cartagena Protocol on Biosafety

A balanced approach toward Modern Biotechnology



Embrace Benefits

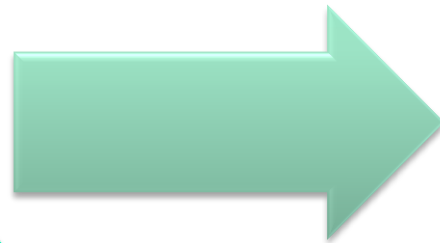


Ensure adequate safety

Objective(s)



To assist Eligible parties through institutional strengthening and training in the implementation of the draft final NBFs in line with its obligations and to ensure compliance to the Cartagena Protocol on Biosafety



To develop measures , process & tools to facilitate national biosafety decision making



Cartagena Protocol Provisions

Article 23 para 2

The Parties shall, in accordance with their **respective laws and regulations**, **consult** the **public** in the **decision-making** process regarding living modified organisms and shall make the results of such decisions available to the public, while respecting confidential information in accordance with Article 21.

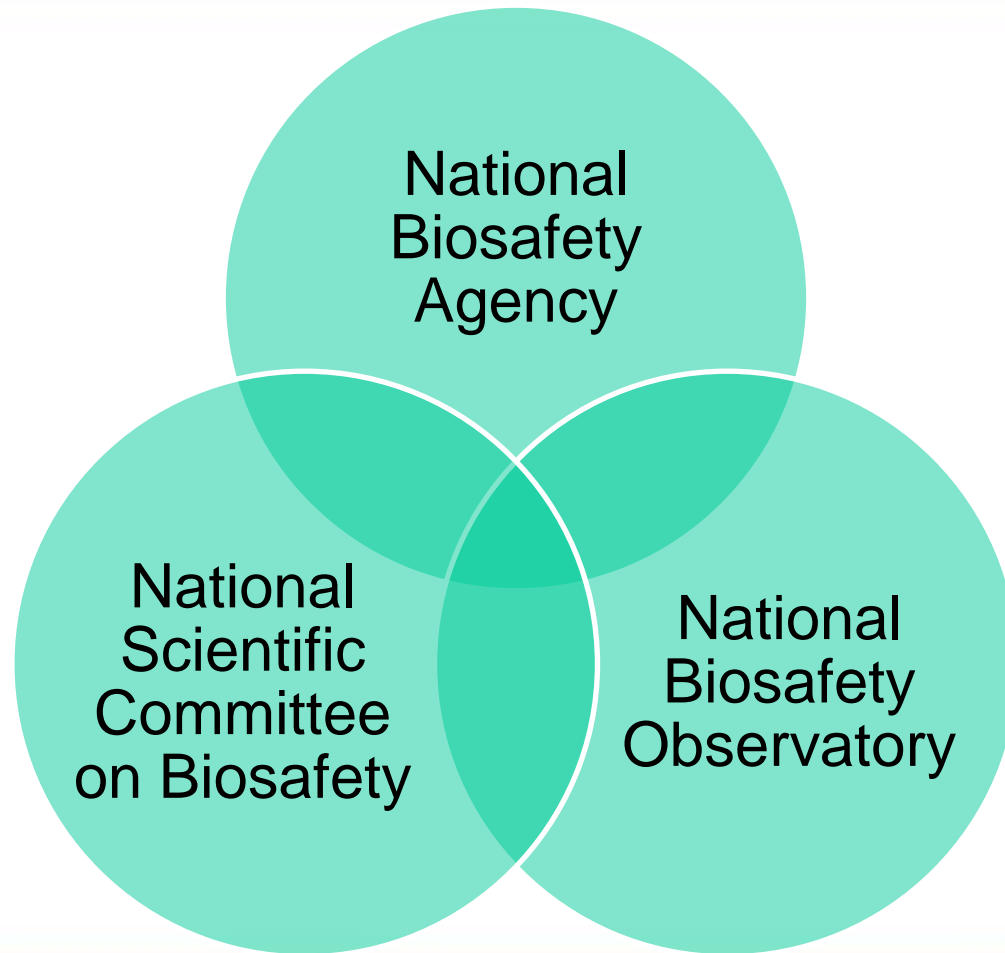
Burkina Faso



- Competent Authority: National Biosafety Agency
- NBA – has to, after receiving notifications, has to make available publicly relevant non-confidential information and inform the relevant ministries
- NBA may, when necessary, decide to organize a public consultation on the use of a GMO (Cost borne by the applicant)

Burkina Faso

- Law adopted in 2005 (n°005-2006)

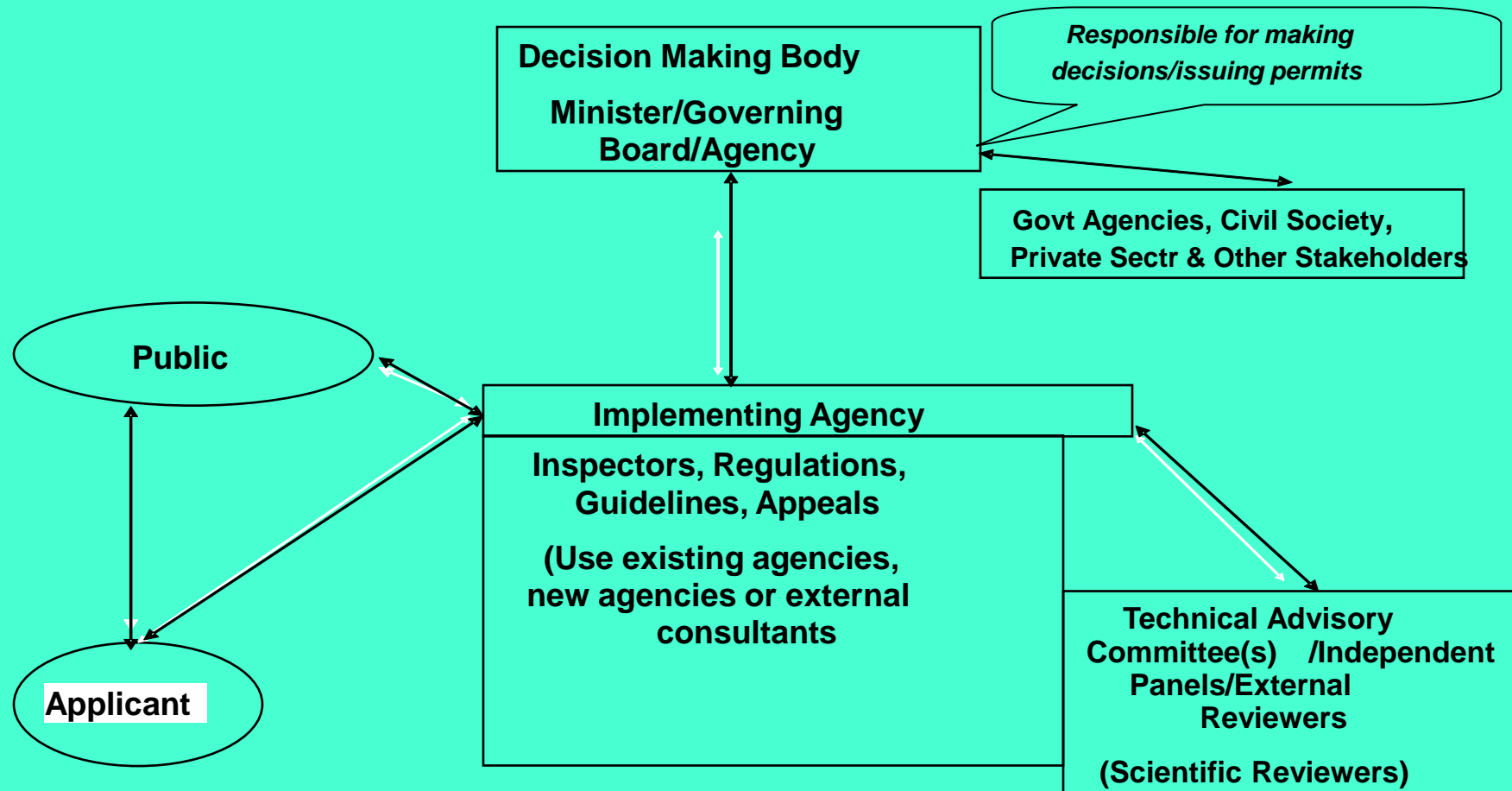


- **Chapter III (article 23 – 26) – Provisions for public involvement in decision making**
- **The public, may provide comments within a prescribed time in an appropriate format. Regulations provide for mode of participation**

Measures identified & potential best practices

- Need to provide a framework for constant dialogue among decision-makers, consumers, producers and enable the public to remain free to make an informed choice
- Involvement of various experts - better credibility
- Identify appropriate mechanisms and communication channels in an environment where a majority of the population has a low level of education?
- Involvement of the developers and end users in the engagement process
- Practice makes perfect – strengthening capacity to communicate mainly out of practice

Ghana Biosafety Regulatory Framework – Schematic Presentation



Constitutional Provisions art 21f –

Act 2011 (Act 831) Specific provisions on Biosafety

[4d]promote public awareness, participation and education on concerning the activities of the Authority under the Act [4d]

21 d – relevant comments submitted by the public

Women's interest captured (NBA and TAC) (article 27 b, c)

Article 40- Regulations - Requires prior written approval and consultation

a. Anything required to be prescribed

2. Interim measures - Biosafety (Management of Biotechnology) 2007 (LI 1887)

3. Specific provisions to issue guidelines

Article 42 – Public awareness and participation entrusted to NBA
Publications in many languages, meetings, publication of final decisions on applications in the gazette and the media

Ghana



- **Public participation guidelines (under review to be updated)**
- To provide guidance and development methodologies
- Stimulate open, transparent, efficient and accountable decision-making on activities with GMOs, thereby fostering good practices for public participation in decision-making that may go beyond the scope of these guidelines; and
- (d) Promote and facilitate public awareness, education and participation in decision making
- Provides forentry points for participation for deliberate release, placing on the market and contained use
- Public engagement - the gazette, NBA website, the print and electronic media and the BCH and other relevant clearing houses
- Information to be provided in the Public Participation Process - Annex III
- Written submission, public hearing or submissions at public enquiry
- Administrative guidelines (under review to be updated)
- Right to Information Bill (2005)

Tanzania



- Environment Management Act [2004] Act on 20
- Section 1 – General Provisions
- “participation” means opportunity and ability to influence the outcome of a decision-making process;
- “decision-making processes” means institutionalized processes or procedures initiated by public or private institutions with the intention of making decisions with potential to have socioeconomic and environmental consequences;



14 PUBLIC PARTICIPATION IN ENVIRONMENTAL DECISION MAKING

- 178.(1) Right to timeline information to facilitate participation.
- (2) The public shall have the right to participate in decisions. Public participation in environmental decision making
- (3) Information relating to decisions affecting the environment may be made available to the public before the date on which the decision is to be made.
- (4) Public involvement in environmental decision-making -
 - (a) early and accessible notice of the intention to make the decision, such as, formulation of policies, plans and programmes relating to the environment;
 - (b) indication of opportunities for the public to present oral and written comments on proposed policies, plans and programmes; and
- (5) The Council and other relevant authorities shall establish mechanisms to collect and respond to public comments, concerns and questions related to the environment including
 - -(a) public debates and hearing; and
 - (b) environmental information, registries and complaints desks in all public institutions.



- **Section 2 – General Principles**
- Article 3d - the principle of public participation (elaborated in article 7e & f);
- (h) the principle of common but differentiated responsibilities.
- **THE ENVIRONMENTAL MANAGEMENT (BIOSAFETY) REGULATIONS, 2009**
- 22.-(1) Applications available to the public
- (2) Time frame for comments (3 months)
- (3) Provision for public consultation – media or BCH
- (4) The National Biosafety Focal Point shall also undertake consultations with such expert bodies
- (5) Any comment made by the public pursuant to preceding provisions of this Regulation shall be taken into account by the National Biosafety Focal Point in making its decision.
- (6) The National Biosafety Focal Point shall promote and facilitate public awareness, education and participation concerning the safe transfer, handling and use of GMOs and products thereof.
- Provision for Guidelines/Manuals
- 80. (1) The Minister may from time to time issue guidelines, manuals or orders to facilitate effective implementation of these Regulations



Biosafety Act 2006 (Act No 7)

- 24.1 a, b, c – allows for consultation of persons or institutions; appointment of persons or committees to facilitate public consultation or public hearing
- Provision for notification on public hearing (14 days) guided by provisions on CBI
- 12 – Invitation of expert knowledge
- Provisions for regulations (on going)

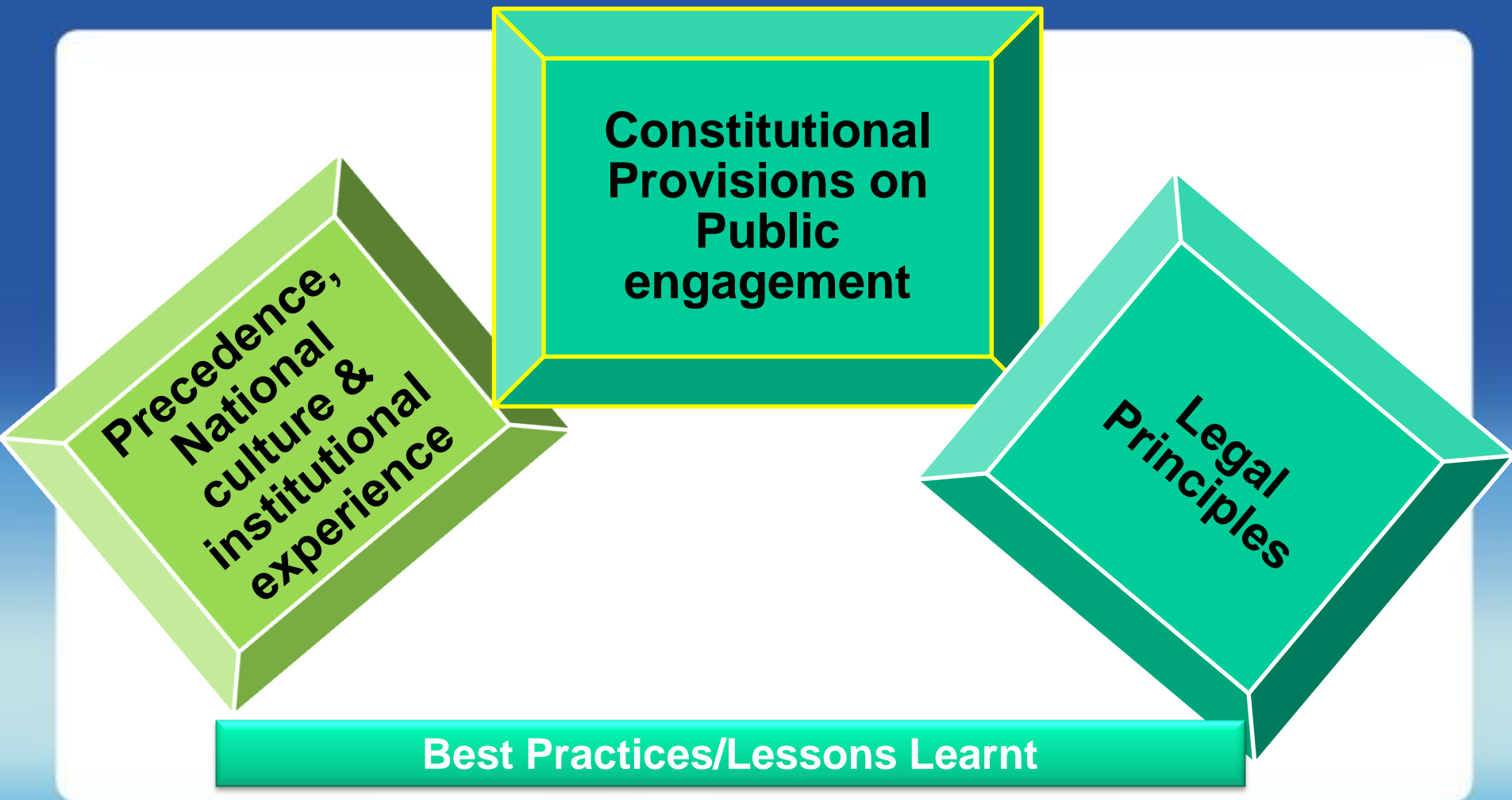
www.naba.com.na

Egypt



- *Issues relating to public access to information and have been under consideration in Egypt for many years, and are one of the cardinal demands of a democratic environment created by the 25th January revolution. Environmentalists were among the proponents of this demand. There is a strong move towards including it in the new constitution.*
- Transparency and Public Participation
- Approval processes – could be suspended for public hearing on specific applications by NGOs and interested parties
- Individuals could report to the regulatory authority of incidents of possible risks to the environment and to the health of people and the latter is obliged to consider and investigate, with possible action.
- Decisions of the regulatory agency must be posted to the public by electronic and other means along with data of the GMO and its release (excluding information judged as confidential).

Legal & Policy Imperatives



THE GMO APPLICATION PROCESS



INTERESTED PARTIES FILL OUT AN APPLICATION TO DEVELOP GMO'S



THE GMO APPLICATION IS SENT TO THE REGISTRAR FOR GMO'S AT THE DEPARTMENT OF AGRICULTURE



THE REGISTRAR CHECKS TO SEE IF THE APPLICATION MEETS THE REQUIREMENTS OF THE GMO ACT



A PERMIT MAY BE ISSUED FOR CONTAINED USE...

FIELD TRIALS...



...OR COMMERCIAL COMMODITIES.



THE GMO REGISTRAR IS INFORMED OF THE DECISION OF THE EXECUTIVE COUNCIL AND IMPLEMENTS IT



THE EXECUTIVE COUNCIL EVALUATES THE APPLICATION, TAKING INTO CONSIDERATION THE RECOMMENDATION FROM THE ADVISORY COMMITTEE AND PUBLIC INPUT



THE APPLICATION IS EVALUATED BY THE ADVISORY COMMITTEE. ADDITIONAL INFORMATION MAY BE REQUESTED FROM THE APPLICANT



A RECOMMENDATION DOCUMENT IS PREPARED BY THE ADVISORY COMMITTEE

Tools & Measures



- Toolkit on consultation & analysis
- http://www.unep.org/biosafety/Documents/Drafting_the_NBF_Formulation_of_the_regulatory_regime.pdf
- <http://www.unep.org/biosafety/files/Toolkit/ToolkitBSF2FR.pdf>
- Public Participation guidelines
- <http://www.unep.org/biosafety/Documents/PublicParticipationIDS.pdf>

Key Issues



Stocking of existing instruments

**Measures defined by
wider constitutional
imperatives**

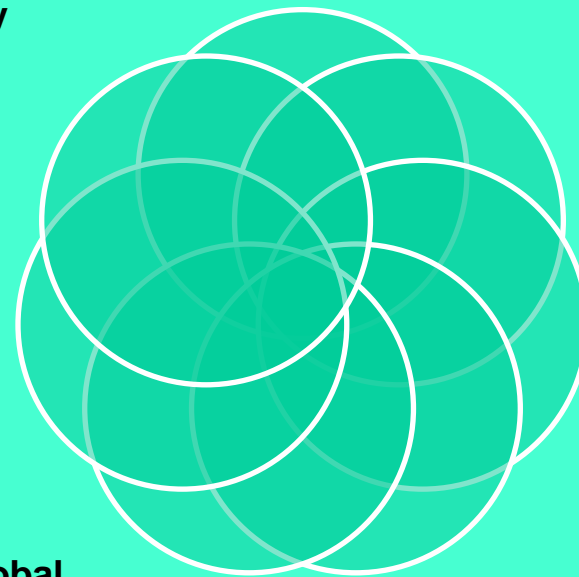
**Identify relevant
publics**

**Public participation
– general & case
specific expertise**

**Agreement on Simplified
procedures (art.13)**

**Mainstream national/global
discourse eg. COP/MOP
processes, BS Strategy,
PoW on Public Awareness
& Participation**

**Identify entry points through a
national strategy on public
participation**



Recommendations

Strengthened public participation measures could strengthen Decision making processes

Utilise national & regional measures and Biosafety Protocol related measures from the Programme of Work on Public Awareness and Participation

Implementing BS Strategy 2011 – 2020

What are Target(s)?



Ensure a vibrant public participation process to support national decision making on biosafety with clearly defined guidance

Disseminate recommendations, best practices and feedback for replicationbuild capacities to facilitate public engagement

Contacts



Alex Owusu-Biney
Portfolio Manager, Biosafety
UNEP/GEF Biosafety Unit
P. O. Box 30552 - 00100
Nairobi, Kenya

Tel: +254 20 7624066

Fax: +254 20 7624041/42

Email: Alex.Owusu-Biney@unep.org

<http://www.unep.org/biosafety>



Thank you

Cartagena Protocol on Biosafety



United Nations
Environment Programme

UNEP-GEF Biosafety Projects



Global Environment
Facility