

THE **ABS**  
CAPACITY  
DEVELOPMENT  
INITIATIVE



L'INITIATIVE DE  
RENFORCEMENT  
DES CAPACITES  
POUR L'**APA**

## Progress Report 2015

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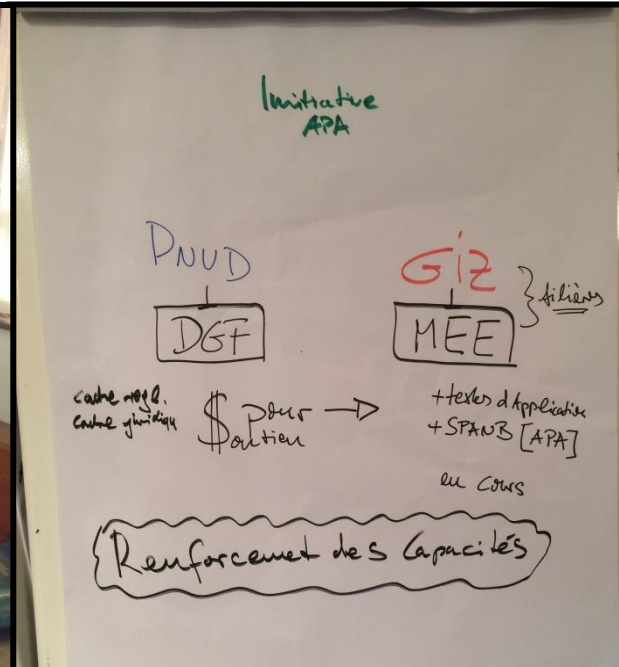
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## 1. Executive Summary

In 2015 the ABS Capacity Development Initiative (ABS Initiative) built upon its former achievements and explored new approaches that led to progressive changes. Responding to the entering into force of the Nagoya Protocol on ABS in October 2014 and the increasing demand for national implementation support, the ABS Initiative set a clear focus on supporting ABS implementation processes at national level. The activities supported by the ABS Initiative make a direct contribution to the implementation of the **Strategic Framework for Capacity-building and Development to Support the Effective Implementation of the Nagoya Protocol on Access and Benefit-sharing** of the CBD. As outlined in the Programme Document 2015-2020, the key areas of the Strategic Framework addressing national implementation, involvement of stakeholders and negotiating ABS agreements are directly supported by the core implementation processes of the ABS Initiative. Lessons learnt and experiences gained by the ABS Initiative will be made available for the further development of the Strategic Framework.

The German Federal Ministry for Economic Cooperation and Development (BMZ) commissioned GIZ for another three years to implement the ABS Initiative. Donors renewed and partly expanded their financial support to the ABS Initiative, but overall the funding situation was unstable.

The ABS Initiative therefore focused on conducting **country diagnostics and the development of national implementation support roadmaps in partner countries** with and without GIZ implemented projects based on the three identified core implementation processes: ABS frameworks, BCPs and community procedures, and ABS agreements, as outlined in the Programme Document 2015-2020. The country diagnostics further contributed considerably to building capacities with respect to conceptually and practically addressing challenges related to the implementation of the Nagoya Protocol.

With respect to ABS frameworks, the ABS Initiative has supported the elaboration of **interim ABS regulations, for example in Cameroon and Madagascar**. In Namibia, the Initiative also supported the development of the **Namibian draft ABS bill** which has recently undergone parliamentary approval process.

Regarding the **establishment of ABS agreements**, the Initiative supported amongst others the negotiation of an ABS agreement between a French flavours and fragrance company, local communities and the relevant government authorities in Cameroon. In Madagascar, the Initiative has organized jointly with the UEBT a business round table in a stakeholder meeting on the *Centella asiatica* value chain.

The ABS Initiative, including through its partnership with the NGO Natural Justice, has supported the **inclusion of Biocultural Community Protocols (BCPs) in emerging ABS value chains**, to support involved communities in obtaining clarity and recognition for their decision-making processes, and in preparing for PIC and MAT negotiations. For example such a process has been started in Madagascar in the Boeny region, with provider communities of *Cinnamosma fragrans*. In Cameroon, experiences with the Echinops ABS agreement laid the foundation for the inclusion of a BCP in the MAT negotiation of a second species (*Mondia whitei*).

A regional-level breakthrough was the validation and **adoption of the African Union Strategic Guidelines for the Coordinated Implementation of the Nagoya Protocol on Access and Benefit Sharing**. The ABS Initiative has also supported various interfaces to ABS, such as the mutually supportive implementation of the Plant Treaty and the Nagoya Protocol (e.g. by organizing a workshop for national teams of policy actors in Addis Ababa) and intellectual property rights resources (by co-organizing a practical workshop on IP and GR, TK and TCK with WIPO).

Further, a series of auxiliary activities and the development of HCD tools were aimed at achieving national objectives of ABS implementation or facilitating exchange between stakeholders of partner countries. The ABS Initiative also solidified its role as a knowledge broker on ABS and published e.g. new brochures and briefs on ABS relevant industry sectors.



In light of the post-2015 development agenda and the Sustainable Development Goals, the ABS Initiative is drafting a **policy paper on the interlinkages of the SDGs and ABS** to support NFPs in partner countries in their sectoral mainstreaming and integration efforts.

Despite these successes, many countries are still facing capacity gaps and implementation challenges and the number of requests to support national implementation is increasing faster than the ABS Initiative can respond to.

Overall however, the targeted specific legal and technical expertise as well as facilitation and support for developing valorisation strategies that had been provided by the ABS Initiative and its partners in 2015, has brought the process of implementation at national level closer to reality.

## 2. Introduction of the programme phase 2015-2020

Based on the deliberations at the General Assembly of the ABS Initiative in October 2014, in Pyeongchang, South Korea, the Secretariat finalized the **Programme Document 2015-2020** for approval at the meeting of the Steering Committee in Addis Ababa, Ethiopia, in March 2015. Responding to the entering into force of the Nagoya Protocol on ABS in October 2014 and the increasing demand for national implementation support the new programme document is setting a clear focus on supporting national ABS implementation processes as highlighted in **Fehler! Verweisquelle konnte nicht gefunden werden.** below. The full document is available [here](#).

Based on an initial assessment of ABS implementation in African countries the Steering Committee further approved a **preliminary list of partner countries** where a diagnostic process should be started in 2015. In order to keep the continent unified while also allowing for achieving the project outcome, **four “flagship” countries** were identified which provide favourable conditions for creating success stories and good practice examples in the near future. These designated countries are **Benin, Kenya, South Africa and Uganda**.

Furthermore, seven countries were added which are already receiving support through GIZ-implemented projects with ABS components; also here the ABS Initiative is to support capacity development for the implementation of the Nagoya Protocol, however generally based on funds/assignments from these projects. Hence, these activities will only to a minor extent, if at all, affect the Initiative's own budget. The countries are **Algeria, Burundi, Cameroon, Democratic Republic of the Congo, Madagascar, Morocco and Namibia**.

It was also decided that based on funds becoming available in 2015 and available time, the Secretariat would be free to start a country diagnostic in up to four additional countries that would be proposed to the Steering Committee and agreed upon via e-mail. This selection should especially favour countries which are lacking additional support from other sources.

African countries which have not been selected as partner countries (i.e. cooperation countries) may receive targeted support upon request, based on available funding and time. Further the ABS Initiative invites government representatives and key stakeholders from cooperation countries to participate in regular regional and sub-regional workshops which provide an opportunity for these countries to learn from and build on the experiences made by the African partner countries of the ABS Initiative.

## 3. Financial status

The German Federal Ministry for Economic Cooperation and Development (**BMZ**) commissioned GIZ for another three years to implement the ABS Capacity Development Initiative (2 Mio Euro for 04/2015-03/2018).

Approval of new funding from **Norway** took longer than expected. The *Arrangement on Delegated Cooperation* between BMZ and the Norwegian Ministry of Foreign Affairs (MFA) regarding the



support to the ABS Capacity Development Initiative covering 5 Mio NKR (as of December 2015 approx. 655,000 Euro) for expenditure in 2016 was signed in December 2015.

Remaining **EU/ACP** funding was available for expenditure until June 2015. New funding from the EU/ACP European Development Fund is expected to be available only from late 2016. As soon as the Commission and the ACP Secretariat have concluded the necessary financing agreements the Commission will discuss the Delegation Agreement with GIZ on the EU/ACP contribution to the ABS Initiative.

Under the existing financing agreement between **AFD** and GIZ 750,000 Euro have been available for expenditure in 2015. Left-over funds can be utilised until June 2016. If at all, new funding might be, only available for 2017 onwards.

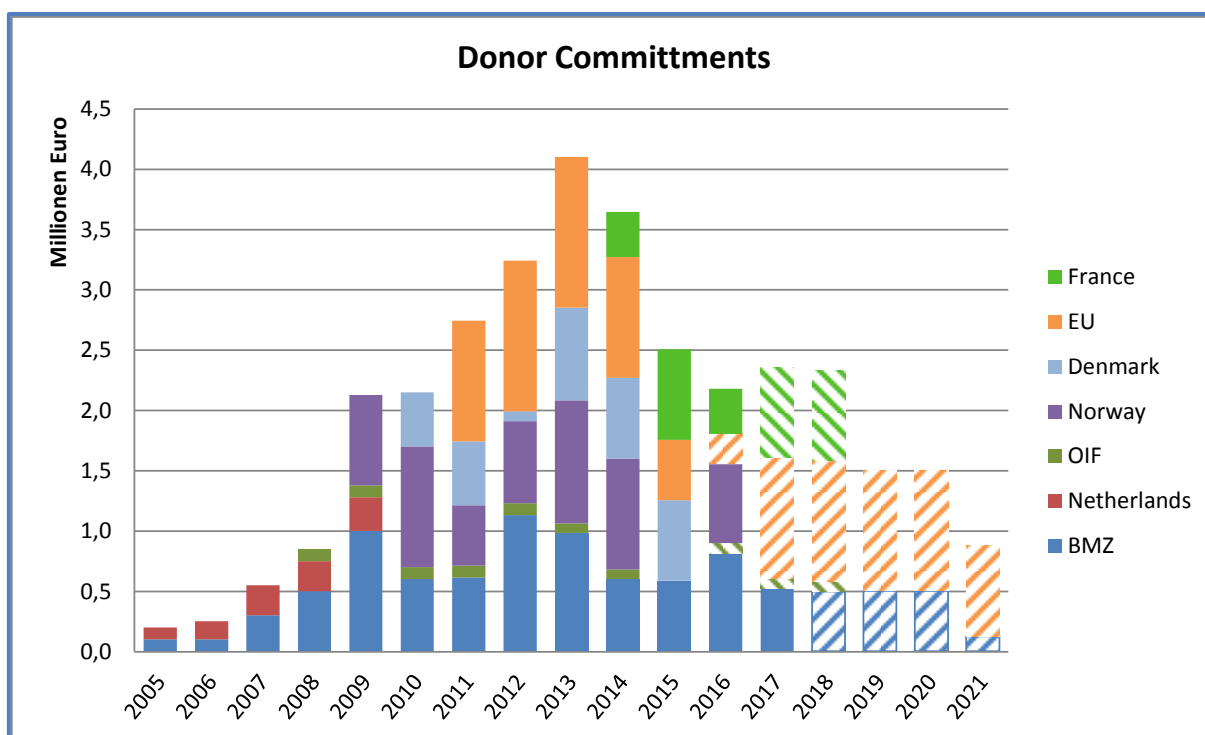
Under the existing financing agreement between the **Danish** Ministry of Foreign Affairs and GIZ 670,000 Euro have been available for expenditure until 03/2016. Relevant in-kind support included the provision of the conference venue for the Copenhagen Business Dialogue in January 2015. Due to changes in political priorities of the Danish government no new funds have been committed to the ABS Initiative. Left-over funds will be utilised until June 2016.

**OIF/IFDD** announced that 85,000 Euro will be made available to the ABS Initiative for 2016. In addition, OIF/ IFDD will provide in kind support to raise awareness on ABS at high level, such as the 16<sup>th</sup> Summit of the Francophonie during the third quarter of 2016 in Antananarivo, Madagascar.

Denmark, France and BMZ contributed 95% of the expenditure in 2015 due to the late confirmation of new Norwegian funding. Funds from the EU/ACP, Norway and OIF/IFDD were available only for the implementation of activities under the “old” Programme Document 2012-2015.

The detailed financial report is thus split into two reports:

- (1) January to December 2015: Reflecting the workplan and budget for April 2014 to March 2015 which are based on the **old** Programme Document 2012-2015. Implementation of activities was limited to the first three months of 2015, but expenditure occurred throughout the year as financing agreements and contracts with several partners could only be settled after March 2015.



**Figure 1: Yearly funding commitments of the donors to the ABS Capacity Development Initiative since 2005. Until 2013 BMZ funds indicate the actual expenditure, from 2014 onwards estimates of minimum expenditure based on current planning cycles. Funds of other donors are included once financing agreements are signed; future commitments still lacking signed financing agreements are ruled.**

*Financial status*

- (2) April to December 2015: Reflecting the workplan and budget for April 2015 to March 2016 which are based on the **new** Programme Document 2015-2020.

Figure 3 illustrates the combined donor contributions for both implementation periods in 2015.

The unstable funding situation in 2015 and the late confirmation of funding from Norway and OIF and the discontinuation of funding from DK caused the management of the ABS Initiative to focus operational expenditure for the period April to December 2015 on

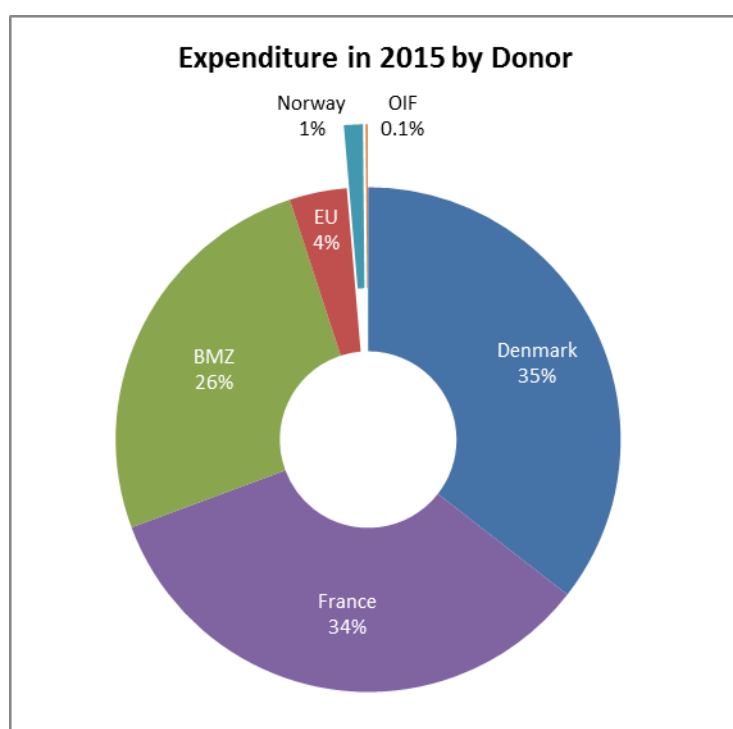
- core activities – i.e. the country diagnostics and development of national roadmaps for implementation of the Nagoya Protocol in partner countries, and
- workshops and trainings with co-funding of co-organizers such as
  - the yearly [Beauty of Sourcing with Respect Conference of the Union for Ethical BioTrade \(UEBT\)](#) where participation of African provider countries was co-funded by the BMZ-funded projects in the respective countries.
  - the [country team workshop on intellectual property rights \(IPR\) for Indigenous Peoples and Local Communities \(IPLCs\)](#) for English speaking countries, co-funded by the Ministry of Environment and Tourism Namibia, WIPO and the BMZ funded Biodiversity management and climate change (BMCC) Project in Namibia,
  - the [community-to-community exchange](#) co-funded by the UNDP Equator Initiative, the Christensen Fund and the BMZ funded Biodiversity Programme in India, and
  - the [country team workshop](#) on the coherent implementation of the Nagoya Protocol and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), co-funded by the Secretariat of the CBD and Bioversity International .

Other expenditure under the workplan and budget 2015/2016 was limited to the necessary minimum to maximise savings for utilisation in the budget 2016/2017.

Regarding the regional scope of expenditure in 2015 it must be highlighted that very limited funds (less than 10,000 Euro) were used to keep ongoing processes running with partners in the Caribbean (CARICOM) and the Pacific (University of New South Wales) until new EU funding will be available. The funds utilised in those regions originated from the EU and BMZ.

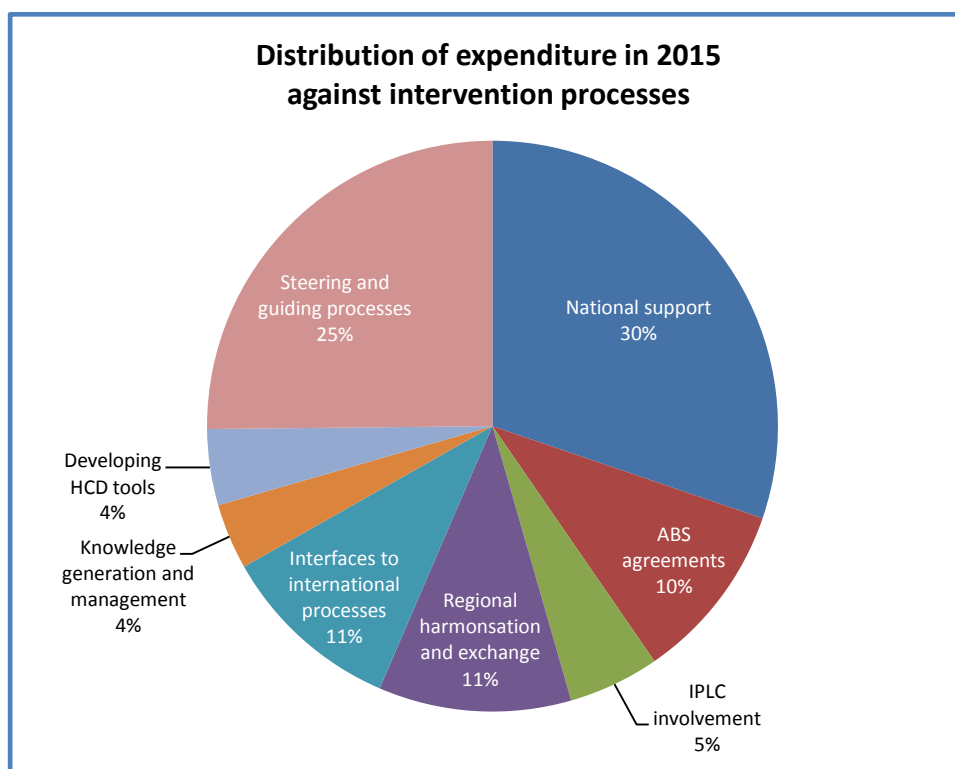
The distribution of funds in 2015 clearly focused in the core processes towards national support:

- 45% of the expenditure directly contributed to national support, ABS agreements and IPLC involvement, i.e. the **core processes** of the intervention logic of the ABS Initiative. Funds



**Figure 3: Expenditure by donor in 2015.** The total expenditure of 2,373,628 Euro includes expenditure for activities under the old Programme Document 2012-2015 which was implemented until 03/2015 (see Annex C) and the new Programme Document 2015-2020 which is being implemented since April 2015 (see Annex D).





**Figure 4: Distribution of expenditure from April to December 2015 across the intervention processes of the ABS Initiative.**

were used to run the country diagnostics, to provide support to ongoing implementation processes including providing funds to partners in delivery, such as the Union for Ethical BioTrade (UEBT), PhytoTrade Africa and Natural Justice.

- 30% of the expenditure was directed to the **auxiliary processes**, such as regional harmonisation and exchange, interfaces to international processes, knowledge generation and management and the development of human capacity development (HCD) tools, and
- 25% of the expenditure were used for the necessary **steering and guiding processes**.

## 4. Management

### 4.1 Steering Committee(s)

The Steering Committee for Africa met on 28 February and 1 March 2015 in Addis Ababa back-to-back with the 9<sup>th</sup> Pan-African ABS Workshop. The report of the meeting is available for download on the ABS Initiative [website](#). Beside the regular discussion and approval of past year's progress report, the new workplan and budget some key decisions were taken. This includes

- the approval of the Programme Document 2015-2020, with its shift to focus support to a limited number of partner countries as basis for scaling-up and experience sharing,
- the list of proposed partner countries,
- guidance for the collaboration and modes of engagement with users / private sector, and
- the decision to organise in the future Pan-African ABS Workshops every second year only, i.e. the year after the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP), and revive the format of sub-regional workshops in the year of COP-MOP to foster exchange of practical experiences of relevant stakeholders within the Anglophone and Francophone group of African countries.





Further, the Steering Committee had requested support for the participation of African stakeholders in relevant international meetings. As no CBD negotiations took place in 2015<sup>1</sup> the ABS Initiative has, in the context of its collaboration with the AUC, supported an experienced African ABS negotiator to attend meetings of the WIPO IGC, FAO CGRFA and ITPGRFA so as to encourage information exchange between different international processes relevant to ABS implementation in Africa. Moreover, delegates from several African countries, including from Namibia, South Africa, Kenya, Cameroon, Madagascar and Morocco, were supported by the ABS Initiative and national GIZ projects to attend an international exchange meeting with the business community in Paris (“Beauty of Sourcing with Respect” Conference and accompanying events).

Meetings of the Steering Committees for the Caribbean and the Pacific were put on hold until substantial funding will be available again.

## 4.2 Secretariat

With the focus of the new implementation phase on supporting partner countries the Secretariat of the Initiative engaged from April 2015 onwards on developing the necessary tools and instruments for running comparable and as much as possible standardised **country diagnostics** as basis for further planning. A two-day team meeting in May 2015 in Königstein, Germany, provided the basis for the development of **detailed checklists/questionnaires** covering the three core processes for country support (see Annex A: Questionnaires for Country Diagnostics). Considering the necessary expertise to assess ABS implementation and capacity development needs in relation to the three identified core processes (ABS frameworks, Biocultural Community Protocols (BCPs) and community procedures, ABS agreements) it was agreed that teams of three or four experts should jointly visit the countries for the diagnostics and that each mission should conclude with a one-day workshop bringing together the relevant national stakeholders to discuss the preliminary findings of the mission and agree on key elements to be included in the country roadmap for ABS capacity development. Through their setup and interactive character, involving all key actor groups the missions also contributed considerably to building capacities with respect to conceptually and practically addressing challenges related to the implementation of the Nagoya Protocol.

For assessing and interpreting the **outcomes of the country diagnostics** a team meeting was organized in November 2015 in Frankfurt, Germany with the following specific objectives:

- (1) Report back by country team leaders on findings and recommendations for further work in the respective partner countries: Madagascar, Uganda, South Africa, Benin, Kenya, Algeria.
- (2) Establish country support roadmaps incl. indicative budget und human resource needs.
- (3) Identify and agree on essential supportive activities, such as (sub-)regional exchanges, trainings, participation in (sub-)regional and international events.

As many partner countries are facing comparable capacity gaps and implementation challenges, thematic task teams were established in order to develop as much as possible standardised capacity building approaches, tools and instruments to be used for national level support (for details see chapter 8.4). The tools and instruments developed by the ABS Initiative will also be made available for informing and supporting the implementation of the Strategic Framework under the CBD.

## 5. Country Diagnostics

Country diagnostics were envisaged to take place between July and October 2015. For six out of the eleven partner countries missions took place as planned:

- July 2015 – Madagascar and Uganda
- August 2015 – South Africa

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<sup>1</sup> The ABS Initiative regularly provides sponsorship for up to ten African governmental or IPLC representatives allowing for an effective participation of African countries in ABS negotiations under the CBD

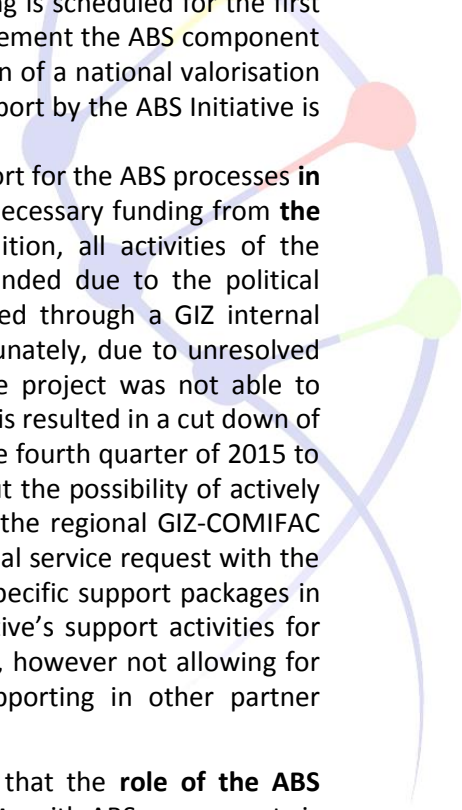
- September 2015 – Benin and Kenya
- October 2015 – Algeria

Country specific summary findings of the diagnostics for the six countries are provided in Annex B: Summary Findings of Country Diagnostics. Detailed country reports are available from the Secretariat of the Initiative upon request. Based on the diagnostics country roadmaps are currently being developed together with the relevant partners in the countries. The country diagnostics in 2015 provided the foundation for the actual capacity building activities to be carried out until 2020.

In designated **partner countries with GIZ implemented projects** with specific ABS components it proved to be difficult, or impractical to run the diagnostic as initially planned by the ABS Initiative for different reasons:

- **Namibia:** The Biodiversity Management and Climate Change (BMCC) Project is supporting ABS and NP implementation since considerable time, based on annual work plans. In this context a fully-fledged ABS country diagnostic, to be organized by the ABS Initiative, was scheduled to take place in the second half of 2015. However, due to political priorities of the partner authority, new dates in February 2016 were agreed upon. As part of a national workshop to define an ABS implementation strategy, an adapted diagnostics exercise was conducted. The gained information allowed the participating stakeholders to identify key gaps and goals, to develop a Namibian ABS vision and to outline a national strategic and implementation framework. The outcomes of the workshop directly fed into the parliamentary approval process of the Namibian ABS bill.
- **Morocco:** In order to plan for a follow up measure of the Adaptation to Climate Change / Implementation of the Nagoya Protocol (ACCN) project a GIZ appraisal mission took place in summer 2015 which included also an expert of the ABS Initiative. As the task of the mission was to inter alia assess the status quo of ABS related regulations / institutions and the existence of relevant community procedures as well as to investigate the capacity to enter into ABS agreements, no further specific country diagnostic was foreseen as necessary for Morocco at that point in time. With the start of the new project on Environmental and Climate Governance (GEC) in January 2016 an operational planning is scheduled for the first quarter to which the ABS Initiative is asked to participate. To implement the ABS component of GEC project, focussing on the development and implementation of a national valorisation strategy for genetic resources, further analytical and advisory support by the ABS Initiative is likely to be expected.
- The country assessments as starting points of the Initiative's support for the ABS processes in **Burundi, Cameroon and DR Congo** did not take place since the necessary funding from **the regional GIZ-COMIFAC project** could not be mobilized. In addition, all activities of the German development cooperation in Burundi have been suspended due to the political instability. Until August 2015, the Initiative's support was funded through a GIZ internal service request of the regional COMIFAC project on ABS. Unfortunately, due to unresolved administrative and political issues within COMIFAC and GIZ, the project was not able to pursue allocating funds to the Initiative to continue its support. This resulted in a cut down of the support of the ABS Initiative to COMIFAC member states in the fourth quarter of 2015 to the bare minimum (remote follow-up of ongoing activities without the possibility of actively taking part in the region). Based on the operational planning of the regional GIZ-COMIFAC project which took place in October 2015, a new and larger internal service request with the Initiative is expected to be signed in early 2016 encompassing specific support packages in defined thematic areas. The service request will cover the Initiative's support activities for Cameroon and DR Congo as well as the COMIFAC region as such, however not allowing for the holistic ABS-implementation approach the Initiative is supporting in other partner countries.

In planning and scheduling the country diagnostics it became obvious that the **role of the ABS Initiative in partner countries with and without GIZ implemented projects** with ABS components is and will continue to be significantly different. In countries with GIZ implemented projects the ABS Initiative is basically acting as service provider to support the plans of operations and road maps





established by the GIZ project teams and their national partners whereas in the latter case the ABS Initiative can agree on and design the support packages, based on the orientations from the Steering Committee together with the partner(s) in the country.

This fact needs to be reflected when quantifying **the outcome indicators** of the ABS Initiative, i.e. in which countries the ABS Initiative can or cannot account for impact via indicators. A **short discussion paper** is being prepared for the meeting of the Steering Committee in March 2016.

Not surprisingly, some **common needs** have been coming up in several countries. How to address these needs was discussed during the November team meeting in Frankfurt (for more details refer to chapter 8.3).

## 6. Supporting partner countries at national level

This chapter briefly summarises supporting activities of the ABS Initiative and its implementing partners beyond the scope of the country diagnostics and roadmap development support mentioned in chapter 5.

In **Benin**, the ABS Initiative continued its support for the NGO *Cercle pour la Sauvegarde des Ressources Naturelles* (CeSaReN), which collaborates closely with the Ministry of Environment and the National ABS Focal Point, through a local grant. It comprises a broad range of activities addressing different aspects, sectors and administrative levels that play a role in the **designing and implementation of the national ABS system**. For example, together with the National ABS Committee, CeSaReN engaged in the further dissemination and promotion of the National ABS Strategy across different government agencies. At the local level, NGO Natural Justice (NJ) provided support to the national CeSaReN for the facilitation of a community protocol process in Bonou, Ouémé, regarding the conservation of two sacred forests and the use of TK associated with local genetic resources. The BCPs are envisaged to be finalized by 2017. Furthermore, with the support of Natural Justice CeSaReN started a communication process with stakeholders from research and traditional medicine to lay the foundation for a **traditional knowledge documentation strategy** and continued its collaboration with a research laboratory and a local community to initiate **pilot activities for the valorisation of traditional medicine**. Finally, as a result from the country diagnostic, the local subsidy was topped up in November 2015 to allow for the timely development of an **interim ABS regulation**. This will allow Benin to be in a position to negotiate its first ABS contract with a foreign user of genetic resources in the course of 2016.

**Cameroon:** Building on preparatory work which had been done in 2014 and earlier, the Initiative supported from January 2015 onwards **two parallel key ABS processes**: (i) the elaboration of an **interim ABS regulation** in form of a governmental ABS decree and (ii) the **negotiation of MAT** regarding the commercial ABS compliant use of the roots of *Echinops giganteus* from the South-western Cameroonian highlands by the French aromatic products company V. Mane Fils. Technical, legal, procedural and organizational support was continuously provided from the distance mainly to the Cameroonian Ministry of the Environment (MINEPDED) over the course of the first three quarters in 2015. Further in March and April 2015, two visits to Cameroon to accompany the negotiation, validation and signature of the *Echinops*-MAT on the local and political level were organized. Additionally the Initiative also financially supported two meetings in the *Echinops*-MAT negotiation process and co-financed “in kind” alongside with matching funds from the involved private sector company an UNDP-Small Grants Programme (SGP)-project. The participation of the Natural Justice (NJ) in March 2015 in the negotiation of the *Echinops* ABS agreement laid the foundation for the inclusion of a **BCP** in the **MAT negotiation** of a **second species (*Mondia whitei*)** in Cameroon – also to be facilitated by the Initiative in partnership with NJ. Furthermore, in August 2015, the Initiative participated in the strategic planning process of the regional GIZ-COMIFAC project and provided legal input for an advanced version of the interim ABS decree.

**Kenya:** The ABS Initiative was invited to support its long-standing partner, the Kenya Wildlife Service (KWS), in convening a **key stakeholder dialogue** early 2015 in Naivasha. The workshop was organised in the context of a KWS executed Nagoya Protocol Implementation Fund (NPIF) ABS project and





addressed a high level audience including the chairpersons of ABS-relevant **parliamentary committees, managers of national universities and representatives of local governments**. The Initiative presented the interlinkages between effective national ABS systems and valorisation of genetic resources and associated traditional knowledge.

**Madagascar** is currently in the process of **developing an interim ABS regulation** in the form of a decree. In this context, the Initiative has been asked to accompany the process and has provided technical, strategic and legal backstopping. An inter-ministerial committee was established to, among other things, oversee the process of developing this interim regulation. The Initiative was requested to participate and provide technical briefings in two meetings of the committee with a view to assist the committee's discussions on technical issues that have arisen in the process of the work on the draft regulation.

The Initiative has further participated in a **stakeholder meeting on the *Centella asiatica* value chain** jointly organized by UEBT and GIZ-PAGE (Conservation and sustainable use of natural resources Programme) Madagascar which took place on 10-11 December, 2015. The meeting, which included a field visit, brought together companies and local producers to discuss ways for promoting equitable benefit sharing, including increasing value addition and contributing to sustainable development at the local level in this value chain. The Initiative also participated and provided input in a back-to-back ABS dialogue that took place on 11 December 2015. The dialogue was an opportunity to brief these companies on the state of play of ABS implementation in Madagascar and to also have an exchange between these companies and decision makers at the governmental level on key elements of the draft regulation.

In **Namibia**, with respect to policy and regulatory aspects, the Initiative focussed on supporting the Department of Environmental Affairs (DEA) in the planning, organizing and conducting the national workshop to develop a strategic and implementation framework for ABS (see also chapter 5). Further activities – delivered by PhytoTrade Africa – covered support of technical, regulatory and commercial aspects. Discussions with stakeholders in September 2015 **identified value chains in which ABS would be triggered** and need for action of the Interim Bioprospecting Committee (IBPC) would be required. Value chains included Devil's Claw, Marula, Ximenia, Bulbine, and a number of essential oils / aromatic materials. Further on, several meetings were held with parties involved in the potential value chains of interest including Marula, *Aloe ferox*, and novel essential oils..

**South Africa** has started reviewing its ABS laws and regulations to ensure they are compatible with the Nagoya Protocol and supportive of its new national **Biodiversity Economy Strategy (BES)**, under final approval and sent for stakeholder consultation. In November the Initiative participated in the presentation of the BES by providing inputs on how investment in capacity development could contribute to the transformation of the sector. In association with a key partner, PhytoTrade Africa, the Initiative also presented the findings of an earlier study on **best practices in ABS implementation**, drawing on public and private sector experiences of implementing current ABS regulations in the SADC region. To kick-start implementation of the Bio-economy Strategy, South Africa has created a **Bio prospecting Industry Forum (BIF)** in which PhytoTrade Africa has assumed a leading role. It is expected that the Initiative will soon have further opportunities to contribute to the workings of the BIF.

Natural Justice continued its work in South Africa with the **National Khoisan Council (NKC)** regarding the use of TK associated with Rooibos, Honeybush and Buchu. This included support for negotiations with users and for dialogue with, for example, the Department of Environmental Affairs and the Rooibos Council. An ABS permit was issued for **Nestle's use of Rooibos based on the benefit sharing agreement with the NKC and the San Council**. First meetings were also held with historical Rooibos farming communities to explore their inclusion in negotiations for benefit sharing with the South African Rooibos Industry.

In addition to more general activities like developing an electronic ABS permitting system, the Initiative and the ABS authorities in South Africa have also agreed in principle to collaborate on a small number (3-5) of concrete ABS value chain "pilot cases", with the dual aim of: a) demonstrating through "proof of principle" that ABS can contribute to both economic development and biodiversity

conservation; and b) documenting practical ABS lessons that can feed into the amendment of ABS laws and regulations. Initial criteria for selecting pilot cases have been agreed and the list is expected to be finalised in February.



## 7. Further (including auxiliary) activities

This chapter provides information about

- regional activities supporting stakeholders in partner and collaboration countries in achieving national objectives of ABS implementation and/or facilitating exchange between stakeholders of partner countries with stakeholders of other (African) countries, and
- key activities and results in relation to the auxiliary processes of the ABS Initiative's intervention logic (see **Fehler! Verweisquelle konnte nicht gefunden werden.**).

### 7.1 Supporting IPLC involvement

Discussions with the **Traditional Knowledge Division of WIPO** about joint capacity development activities started off in 2013. A significant step was the agreement to **co-organise two ABS and IPR workshops for indigenous peoples and local communities (IPLCs)** with a particular focus on traditional knowledge – one each in Anglophone and Francophone Africa:

With the support of the Namibian Ministry of Environment and Tourism and the GIZ-implemented BMCC Project, the Anglophone workshop took place in August 2015 in Windhoek, Namibia gathering teams from six countries – Cameroon, Ethiopia, Kenya, Namibia, South Africa, Uganda –, each team comprising two representatives of IPLCs, the National Focal Point for ABS, a representative of the national IP Office as well as an officer from a national development planning authority. The workshop aimed to raise awareness on IP principles, systems and tools, discussed implications for the protection of TK and explored the role they can play in ABS agreements to create development opportunities for IPLCs and governments. Participants were given ample opportunity to meet in their national teams and informally reflect on, improve and conceptualise future work in their respective countries. The workshop was very well-received. The Workshop for Francophone countries is envisaged to take place in Morocco in September 2016. The report of the workshop is available for download [here](#).

In a partnership between the ABS Initiative, the **UNU-IAS implemented Biodiversity and Community Health Initiative (BaCH Initiative)** and the **Foundation for the Revitalisation of Local Health Traditions (FRLHT)**, a **Community-to-Community Exchange and Capacity Development Workshop for Traditional Knowledge Holders** was organized in September/October 2015 in Bengaluru, India, bringing together more than 60 IPLC representatives and traditional knowledge holders from India, Central Asia and 13 African countries. Additional participants were supported by the UNDP hosted Equator Initiative, Bioversity International and The Christensen Fund. The workshop was the first of its kind to facilitate a community-to-community exchange on ABS, traditional knowledge and related issues between the two (sub-)continents. The core of the workshop was a three-day field visit to local initiatives protecting and valorising genetic resources and traditional knowledge, biodiversity- and TK-based companies as well as Indian government authorities in charge of ABS in three federal states. The remaining four days were dedicated to exchanging experiences and discussing issues around the documentation, protection, revitalization and valorisation of TK, examples and opportunities of ABS, community rights and the potential of biocultural community protocols. Participants highly appreciated this unique opportunity for experience exchange and learning. The momentum generated at this meeting gave rise to several international partnerships and initiatives for TK documentation. Furthermore, African participants issued a declaration expressing their commitment to promote awareness of the Nagoya Protocol and ABS in their communities and home countries. The ABS Initiative and its partners hope to organize a follow-up meeting of this kind in Africa, based on available funding, and envisage expanding their collaboration to national-level activities in the Initiative's partner countries. Documents and detailed information on the workshop are available [here](#).



## 7.2 Linking users (science and private sector) and providers

In 2015, the longstanding collaboration of the **ABS Initiative with the Union for Ethical BioTrade (UEBT) and PhytoTrade Africa** was transformed into a **strategic partnership**. Companies, legislators and policy makers as well as providers are seeking specific legal and technical advice for the valorisation of biological and genetic resources – ultimately the establishment of ABS compliant value chains. The partnership is to promote dialogue and exchange, facilitate processes for ABS compliance and promote ABS beyond the basic legal obligation.

The 2015 UEBT '[Beauty of Sourcing with Respect' \(BSR\) conference](#), which took place in Paris in June 2015, provided an occasion for ABS stakeholders from government, research and SMEs in partner countries of the ABS Initiative (Namibia, South Africa, Kenya, Cameroon, Madagascar, Morocco) to engage with users of genetic resources and to increase mutual understanding of the importance, requirements and opportunities of ABS-compliant innovation and value chains. In conjunction with the BSR conference, UEBT organized visits to companies (L'Oréal Advanced Research Department; Natura Cosmetics concept store) working with natural ingredients, as a way to gain understanding of business practices and perspectives on ABS. Also alongside the BSR conference, UEBT organized an exchange between stakeholders from African provider countries and UEBT members as part of the UEBT Member Day. This was a way to promote discussion on opportunities and possible approaches to ABS-compliant innovation and value chains in Africa. Actors from all partner countries were highly satisfied attending the conference and reported on North-South and South-South follow ups with industry and research. The ABS Initiative also plans to partner in 2016 with this successful format.

Besides the BSR conference, PhytoTrade Africa participated and presented practical ABS approaches in several relevant business fora in South Africa linking national and international users and providers of genetic resources with national regulators.

As in the previous year the ABS Initiative was also invited to present at the **International Chamber of Commerce (ICC) Conference "Working out ABS"**, held in September 2015 in Paris. The Conference focussed on analysing and exchanging on practical ways how the different user sectors can comply with the EU "user" ABS regulations that recently entered into force. The conference provided an opportunity for the ABS Initiative to inform industry on the latest developments with respect to ABS "provider" regulations in the South, particularly in Africa, which are often different in scope compared with the EU regulations. This allowed to enter into a constructive discussion on how to practically deal with this challenge – and with the critical situation that most of the provider countries are not (yet) in the position to issue ABS permits / certificates, which are now required in the EU to pursue R&D and commercialisation.

## 7.3 Supporting regional harmonisation and exchange

In 2015, the process to develop a regional guideline for the coherent implementation of the Nagoya Protocol in Africa came finally to an end with the adoption of the **African Union Strategic Guidelines for the Coordinated Implementation of the Nagoya Protocol on Access and Benefit Sharing** at the African Ministerial Conference on the Environment (AMCEN) during its 15<sup>th</sup> Session in March 2015 in Cairo, Egypt (see AMCEN 15 Report 'EX.CL/902(XXVII)'). AMCEN also took note of the accompanying **Practical Guidelines for the Coordinated Implementation of the Nagoya Protocol in Africa**, which are designed to directly support national legislators in domesticating the Protocol. The AMCEN decision was **finally endorsed by the Executive Council of the AU** during its 27<sup>th</sup> Ordinary Session ('EX.CL/Dec.876 (XXVII)') in June 2015 in Johannesburg, South Africa.

This process started in 2011, when the Department for Humans Resources, Science and Technology (DHRST) of the African Union Commission *requested the ABS Initiative to support financially and technically a gap analysis* of the 'African Model Law on the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources' with respect to the relevant international developments on ABS and intellectual property rights since the late 1990s when the OAU Model Law was developed. Based on the feedback on the 'Gap Analysis Report on the African Model Law on the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources' at the 7<sup>th</sup> Pan-African ABS





Workshop in 2013 *the Initiative supported financially and technically the drafting of AU Guidelines for the coherent implementation of the Nagoya Protocol on ABS*. After several informal validation steps the final formal technical validation meeting took place in August 2014 in Addis Ababa. The DHRST then forwarded the validated documents to AMCEN for adoption.

To further support harmonisation and exchange at regional level in Africa, including to better provide assistance to African countries which are not directly benefitting from the Initiative's support (cooperation countries), the ABS Initiative has signed a Letter of Intent (LoI) around common activity clusters with the African Union Commission Departments of Rural Economy and Agriculture (DREA) and Human Resources Science and Technology (HRST). For further details see LoI in the Annex F.

A regional **capacity-building workshop for the development of harmonized national ABS frameworks for CBD and NP Focal Points from Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo** was held in June 2015 in Bobo Dioulasso, Burkina Faso. The main objective of the workshop, which was initiated by the ABS Initiative and funded by the New Partnership for Africa's Development (NEPAD) Climate Change Fund, was to discuss strategies and action plans to promote the coordinated implementation of the Nagoya Protocol on ABS in the West African sub-region. One of the workshop's key outcomes was the adoption of a resolution calling on the Economic Community of West African States (ECOWAS) to facilitate coordination among its member states in the implementation of the Protocol, taking into the account the AU Guidelines.

## 7.4 Interfaces to international processes

The long-established partnership with **Bioversity International** to jointly support consistent and mutually supportive legislative, administrative or policy measures to implement the Nagoya Protocol and the Multilateral System (MLS) of the International Treaty of Plant Genetic Resources for Food and Agriculture (ITPGRFA) at national level was intensified in 2015 by not only conducting joint workshops, but also directly supporting national implementation of both ABS instruments in two partner countries:

- The ABS Initiative is providing **in-kind support as partner** to the project "Mutually supportive implementation of the Nagoya Protocol and Plant Treaty" under the UK funded Darwin Initiative. Partner countries are Benin and Madagascar, and the project is funded with £ 290,502 (approx. 375,000 Euros) for 3 years (April 2015 to March 2018) thus leveraging significant funding for ABS implementation in two African countries. The project steering group includes – beside the partner countries, Bioversity International and the ABS Initiative – the AU Commission, the Secretariats of the CBD and the ITPGRFA, thus facilitating scaling up of experiences and lessons learned to other countries and regions.
- The ABS Initiative participated in a **review workshop** in June 2015 in Rome, Italy, for a '**decision-making tool for developing national policies to implement the multilateral system of ABS**' which Bioversity is developing under its Genetic Resource Policy Initiative. The decision making tool is envisaged to be published in 2016.
- Building on the outcomes of the [tandem workshop for ABS National Focal Points and ITPGRFA Focal Points](#) in 2014 – key findings have been published in "[Mutually Supportive Implementations of the Plant Treaty and the Nagoya Protocol: A Primer for National Focal points and Other Stakeholders](#)" – a "**country team**" **workshop** was organized in November 2015 in Addis Ababa. The workshop was co-funded by Bioversity International, the SCBD and the ABS Initiative and aimed at increasing awareness about the CBD/Nagoya Protocol and the ITPGRFA/MLS addressing key actors in finance and national planning processes related to climate change adaptation, NBSAPs, and rural development. In this regard further objectives were to promote cross-fertilization in national planning and policy processes where access and benefit sharing has potential to make important contributions. Teams (partner countries of the ABS Initiative in *italics*) from *Benin*, Burkina Faso, Côte d'Ivoire, *DRC*, Ethiopia, *Kenya*, *Madagascar*, Mali, Malawi, Senegal and *Uganda* identified the coordination gaps, outlined approaches how to improve planning processes and developed roadmaps for making a change back home.



## 7.5 Knowledge generation and management

In 2015, the Initiative solidified its role as a knowledge broker on ABS and adapted existing and conceptualized new tools as regards the requirements of the new phase 2015-2018.

Two new brochures have been produced and disseminated:

- “The ABS Capacity Development Initiative” presenting the strengthened support for national implementation under the new Programme Document 2015-2020 including the Initiative’s intervention logic as well as a map of the partner countries.
- “Making ABS work for you” on the strategic partnership between the ABS Initiative, PhytoTrade Africa and UEBT (see also chapter 7.2).

Six briefs on ABS relevant industry sectors have been produced jointly with “People & Plants International” and the University of Cape Town. Based on infographics the briefs provide comprehensive information on the sectors, primarily relevant to ABS regulators.

Since September 2013 the Initiative has disseminated over 100 editions of the ABS News Digest to more than 1,300 recipients globally each weekly. Feedback from recipients proved that the digest developed into a valuable information source for African partners and the ABS community as such.

The ABS Initiative website remains the core knowledge management tool. The website is permanently updated and also mirrors the current international status quo regarding ABS and the Nagoya Protocol. As the focus of the Initiative’s support shifts to the national level in selected partner countries, those country profiles receive particular attention. The revamp is still ongoing with all new features and content to be expected by April 2016. The number of identified visitors and page impressions per month (1,000 and 3,200 respectively) has stayed about the same as 2014.

Alongside press coverage on the events (co-)organized by the ABS Initiative, an interview with the ABS Initiative on its new approach and the role of the private sector for making ABS work was published in the November 2015 edition of the SCBD publication “[Business.2020](#)”.

## 7.6 Development of (HCD) tools

In 2015, the Fridtjof-Nansen-Institute led development of the MAT negotiation training tool reached a milestone with in total three test trainings. The first regional training – to be seen as a pilot event – was already conducted in August 2014 in Fiji. In March 2015, a national training in Addis Ababa, Ethiopia, was conducted in cooperation with the Ethiopian Biodiversity Institute and co-funding of the GEF/UNEP project “Capacity Building for Access and Benefit Sharing and Conservation and Sustainable Use of Medicinal Plants”. In December 2015 a second regional training was conducted in Paramaribo, Suriname, in cooperation with the CARICOM Secretariat and co-funding of the EU/UNEP MEA project. All three trainings were evaluated positively by participants. In the final phase of the development of the tool, the workshop suggestions will be integrated, the methodological concept will be compiled and a set of contracts, ABS agreements and standard clauses will be published to complement the already existing guides “How (Not) to Negotiate Access and Benefit Agreements” and “The ABS Agreement - Key Elements and Commentary”. All documents will be translated into French and serve as basis for future training-of-trainers workshops as well as national and regional MAT negotiation trainings.

# 8. Challenges

## 8.1 Implementation challenges (in Africa)

Despite visible progress in 2015, the ABS Initiative – or rather the implementation of the Nagoya Protocol in Africa – is facing several challenges.

The ABS diagnostics have clearly shown that a one-size-fits-all approach for ABS implementation and related capacity development measures is unlikely to be fruitful. Countries require – in varying



degrees – support for the development of legal and institutional frameworks, ABS agreements and the participation of IPLCs in ABS processes – the three core processes of the ABS Initiative in its current phase. Custom-fit support is a prerequisite for effective ABS implementation due to the considerable diversity of ABS related processes and levels of process made at national level.

For instance, levels of ABS implementation in African partner countries range from drafting skeleton interim regulations in order to have at least a minimum framework to operate in legal certainty (e.g. Benin and Madagascar) to revisions of existing ABS laws / regulations and developing online permitting schemes in order to increase effectiveness and efficiency of existing ABS systems (e.g. South Africa, Kenya and Uganda). This broad range from “setting up” to “adapting” ABS frameworks mirrors also the different but generally insufficient experiences that countries have gained in (a) establishing and administrating ABS agreements and (b) understanding R&D/IP/business models and value chain development – all prerequisites for negotiating fair and equitable ABS agreements and developing commercially viable valorisation strategies for biological and genetic resources. Also governance structures at national and local level, including the role and involvement of IPLCs in ABS processes differ enormously, depending on the country – ranging from no legal provisions for IPLCs at all (e.g. Algeria and Morocco) to full constitutional recognition of IPLCs rights (e.g. Kenya).

Successful capacity development in this context requires rather specific technical and legal advice in a continuous manner – and thus more human and financial resources than the regional support activities which the ABS Initiative had focused on in the previous phases. Thus a key challenge is to maintain the Initiative’s delivery format supporting national level, while donor commitments are unsure and even decreasing – and while on the other hand more countries (not only) in Africa are asking for technical support by the ABS Initiative. Therefore, the ABS Initiative is developing tools and standardizing trainings in order to reach the Initiative’s cooperation countries as well as even beyond.

While the key ABS process drivers at national level (mainly ABS Focal Points in the ministries / departments of environment) have attained a general understanding of the Nagoya Protocol and its mechanisms through the support of the ABS Initiative, there still exists a severe knowledge gap with respect to understanding the utilization of genetic resources and associated traditional knowledge in different industry sectors and how to develop strategic approaches to valorisation. At the same time, sector ministries that are crucial for ABS implementation (planning, agriculture, research, trade/economy, rural development) typically still only have limited comprehension of the Nagoya Protocol and how its implementation could benefit the countries and their sectoral development objectives. A general challenge that the ABS Initiative needs to address is therefore to attain a common understanding of ABS implementation among all relevant stakeholders and political buy-in from the respective ministries in order to develop a coherent ABS approach at country level. Here the policy paper on the ABS-SDG links seeks to provide a basis for finding common ground across sectors at national and international level.

Another defy encountered during the country diagnostic is that the ABS Initiative is now – being implicated in national processes – rather bound to (sometimes changing) implementation timelines of partner authorities at national level – what may result in adaptation of national work plans of the Initiative, possible delays and knock-on effects for other countries regarding ABS activities.

For further informing international processes relevant to ABS implementation (under CBD/Nagoya, FAO ITPGRFA, WIPO IGC ) and other capacity development initiatives, challenges in implementation and possible ways to address them will be analyzed, compiled and documented by the ABS Initiative. These findings will finally feed in and underpin substantially the discussions on the review of the Nagoya Protocol at COP/MOP 3 in 2018.

## 8.2 Definition and understanding of indicators

In the context of the development of the questionnaires for the country diagnostics conceptual questions came up on what is eligible (and what not) to count / account for in the results matrix (see Programme Document 2015-2020 with respect to legal and institutional frameworks, ABS agreements, as well as BCPs and comparable instruments. As indicators are to be quantified with





baseline and target figures as soon as possible, there is a need for clarification concerning the first three outcome indicators<sup>2</sup> of the results matrix. Against this background the secretariat of the ABS Initiative prepared a paper as basis for a substantive discussion among the Steering Committee members in order to reach a common understanding of the outcome indicators 1-3, their quantifiability, their respective minimum standards and meanings.

### 8.3 ABS and (inter-)national development goals

There is a risk that ABS is regarded by policy and decision makers as too complicated and lengthy while possibly only little niche impacts in the biodiversity sector could be attained. However ABS must not be seen as an isolated approach and a niche mechanism but as a multifaceted instrument to support national development objectives addressing rural development / employment, food security, climate change resilience, technology transfer, industrial development, local empowerment, to name a few. A need for further spelling this out was articulated in many partner countries during the diagnostic missions. Tangible linkages of the implementation of the NP to the national and international development agendas are to be established – in order to foster the political buy-in of the relevant line ministries and thus to integrate ABS as a building block in other sectoral strategies. As a first step the ABS Initiative has supported the draft of a parliamentarians briefing note in Namibia (in the context of the adoption of the national ABS bill) that focuses on the contributions of ABS implementation to the national development agenda vision 2030.

With the adoption of the post-2015 development agenda and the Sustainable Development Goals (SDGs) a globally endorsed framework has been established, which provides a remarkable set of references to the Access and Benefit Sharing mechanism. The ABS Initiative has drafted a policy paper which outlines, how ABS core mechanisms and ABS triggered processes contribute directly or indirectly to the implementation of the SDGs and their respective targets. The policy paper is meant to a) support actors such as National Focal Points in partner countries in their sectoral mainstreaming and integration efforts and b) to encourage bi- and multilateral development partners to find anchor-points in their different cooperation portfolios that would allow for increased investing in ABS capacity development.

### 8.4 Instruments and Approaches to address common needs

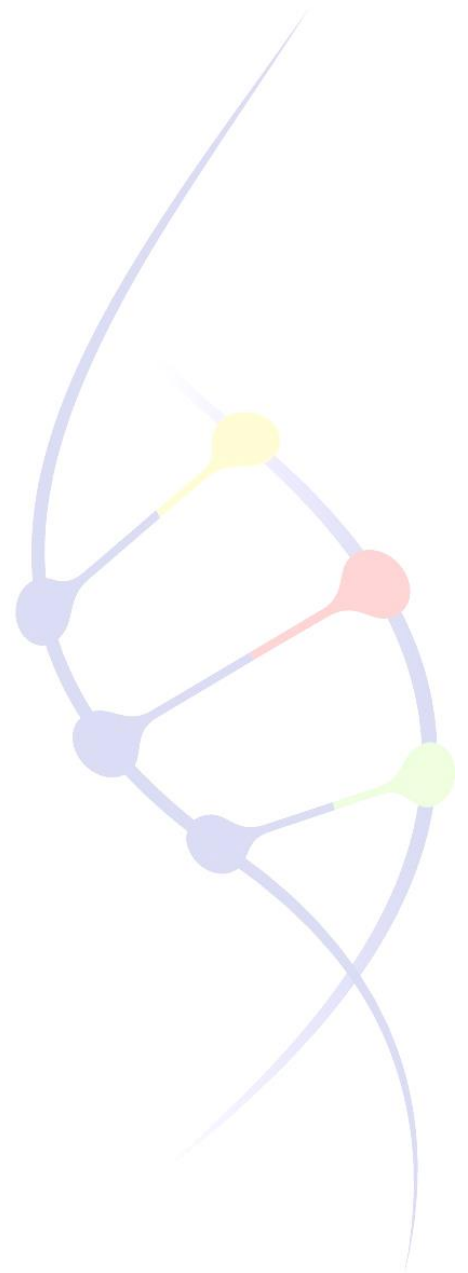
Not surprisingly, some common needs have been coming up in several countries which were discussed during the November team meeting in Frankfurt leading to the establishment of ABS Initiative task forces to provide efficient solutions in reasonable time:

- Awareness raising on ABS among relevant stakeholders (government institutions, IPLCs, academia and private sector) – e-learning tools, videos, comics, posters and generic templates for target group specific CEPA materials which can be easily translated into local languages. In its first meeting the CEPA Task Force identified ABS regulators and IPLCs as primary target groups for developing standardized and adaptable public awareness and communication tools which are easily adaptable to specific national contexts. Among others, these include an “ABS – Simply Explained” targeting specifically IPLCs and, for regulators, a building block kit demonstrating all potential components, actors and processes of ABS compliant value chains.
- Digitised permit registration enabling efficient and effective monitoring of GR and aTK utilization –collaboration with One World Analytics.
- Inventories of medicinal plants and related TK – potential collaboration the South African Department of Science and Technology which developed the National Recordal System (NRS) for documenting traditional knowledge and practices and with the Indian Foundation for the Revitalization of Local Health Traditions (FRLHT) which developed community based and centralised databases for the documentation of traditional medicinal knowledge.

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<sup>2</sup> Outcome indicators are binding for the project implementation phase (as agreed upon with BMZ), in comparison to outputs and indicators at the output level which may be changed by decision of the Steering Committee

- Understanding and supporting utilisation and valorisation of GR and aTK – collaboration with PhytoTrade Africa and UEBT to engage with the private sector.





## Annex A: Questionnaires for Country Diagnostics

### Questionnaire: Status and Development of ABS Agreements

Questions <i>- Questions highlighted in yellow, are also asked in other questionnaires -</i>	Rationale
<b>ABS Policies</b>	
<b>0. Definition of ABS agreements</b> <ul style="list-style-type: none"> <li>How does the government define an ABS agreement?</li> </ul>	<i>This is (in conjunction with A.) important to know for establishing a common and comparable baseline between countries assessed and further monitoring.</i>
<b>Regulatory Framework</b>	
<b>A. Existing ABS agreements</b>	
A1. How many ABS agreements, as defined by the government, exist? Provide details!	<i>ABS agreements will be defined as per the response given to question “0” above. ABS agreements may thus include permits, contracts and /or projects issued, signed and/or otherwise recognized by the government. Please make sure to describe exactly what is covered and what is not by the term “ABS agreement.”</i>
A2. What is the current process and timeline for ABS agreements?	<i>Please note that questionnaire on regulatory framework enquires about steps, sequences, procedures, timelines ABS-related permitting processes. Here, it is necessary to clearly define the process considered for “ABS agreements,” which may or may not be, for the government, the same as permits or projects authorized by other permitting processes.</i>
A3. What is the current process and timeline for securing any other ABS-related permits (e.g. collection, research, export permits)?	<i>Again, the aim is here to differentiate, where applicable between permits for basic research / bioprospecting / commercialization, and to identify which other permits are necessary and in which sequencing. Please note that highlighted information is also requested in the regulatory framework</i>





	questionnaire (point f).
<b>B. Agreements in the pipeline</b>	
B1. Do you know of any agreements and/or projects dealing with biodiversity-based research, development or commercialization or ABS that have not been formally approved or recognized by government? Provide details.	<i>These are arrangements and/or collaborations with potential of becoming government-recognized ABS agreement. It won't be possible to obtain comprehensive information, but a general idea of some of the lower hanging fruit for ABS agreements.</i>
B2. Are there any existing or planned policies and / or rules to formally approve or endorse such agreements?	
<b>C. Characteristics of ABS laws and regulations / application tools</b>	
C1. How do ABS rules provide (or not) for a) legal certainty, b) clarity over the ownership of GR and aTK c) defined timelines for ABS processes, d) flexibility for ABS negotiations?	<i>The aim is determining how easy or difficult rules and policies make it to negotiate and enforce ABS agreements – and whether tools, instruments and institutions are available to facilitate this.</i>
C2. How would business identify the counterpart for negotiating ABS agreements?	
C3. Are you aware of any guidelines, standards, codes of conduct or training materials providing information and/or guidance on how to deal with ABS rules and practices?	
<b>D. Stakeholder involvement and capacities</b>	
D1. How many ABS agreements with involvement of IPLCs exist? (as defined by government). Provide details key aspects on these agreements.	<i>The aim is determining the potential for ABS-related activities and agreements based on existing capacities and infrastructure. Please note highlighted questions are also included in other questionnaires.</i>
D2. What are other types of stakeholders involved in existing ABS agreements (e.g. types of institutions or companies, nationalities, industrial or scientific sectors)?	
D3. How would you describe capacities of local actors to engage in negotiation and implementation of agreements on biodiversity-based R&D	



and/or commercialization - in terms of business and/or legal questions	
<b>Institutional set-up and Information Exchange</b>	
<b>E. Stakeholder involvement and capacities</b>	
E1. Who are potential local partners and supporters? (NGOs, service providers, companies, financial support)	<i>The aim is to determine the capacities to support developing legally sound and equitable ABS agreements in the country / region.</i>
E2. Do you know of legal experts that provide or could provide guidance on ABS negotiations and would be able to draft ABS agreements?	
E3. How do you rate the legal quality of ABS agreements you know?	
E4. Do you know of commercial / value chain experts that provide or could provide guidance in ABS negotiations?	
E5. How do you rate the “deal” for your country in the ABS agreements you know?	
<b>Traditional knowledge and IPLC issues</b>	
<b>F. Resource rights of IPLCs</b>	
F1. Are there questions or issues linked to rights over biological and/or genetic resources or aTK that may affect the negotiation or implementation of ABS agreements?	<i>The objective of TK and IPLC -related questions is to define in more detail how their particular issues, needs and interest are or should be considered in the negotiation or implementation of ABS agreements.</i>
<b>G. Stakeholder involvement and capacities</b>	
G1. Are there IPLC networks, organizations or CBOs/NGOs that support or could provide support to IPLCs in negotiation or implementation of ABS agreements?	



<b>H. Customary rights</b>	
H1. Have community protocols or comparable procedures been used or considered in any ABS agreement or other collaboration on biodiversity-based research, development or commercialization?	
<b>I. R&amp;D and trade</b>	
I1. Are there biodiversity-based research, development or commercialization projects involving IPLCs?	
I2. Are there any research projects in the country that use aTK and/or community-managed/owned GR?	
<b>Transboundary issues</b>	
<b>J. Transboundary value chains</b>	
J1. Looking at existing research, development and commercialization of biological and/or genetic resources and aTK, how important would you say are transboundary resources?	<i>The aim is to identify potential for conflict and collaboration over ABS agreements involving resources and knowledge shared with other countries.</i>
<b>Valorization strategy and value chain development</b>	
<b>K. Valorization strategies</b>	
K1. Is there a national strategy or policies for valorization of biological and/or genetic resources?	<i>Valorization of biological and/or genetic resources refers to strategies, policies, programs or rules aiming to add value to biodiversity through activities such as research, product or service development, supply chain development, local value addition, partnerships, certification and verification, and/or marketing. Please note that highlighted information is also requested in the regulatory framework questionnaire</i>
K2. How do such strategies or policies address ABS-related issues?	





K3. Are there references to biological and/or genetic resources or aTK in national strategies or policies on economic development?	<i>The idea is to get information on measures taken by government to promote and facilitate biodiversity-based R&amp;D and commercialization.</i>
K4. What is your sense are the economic opportunities linked to biodiversity? Do you know of any relevant activities or interest in biodiversity-based R&D, commercialization? Do you know of actors such as universities, agencies, companies or communities being contacted for GR or aTK?	<i>The potential for ABS-related activities (and thus ABS agreements) is also linked to the availability of information for possible users. The idea here is to get a sense of existing information and interest.</i>
<b>L. R&amp;D with GR and aTK</b>	
L1. Is there a national policy on biodiversity-related R&D? What are the actors that conduct taxonomy and biodiversity inventories? Are there national databases or collections?	<i>Most countries have a limited picture of national actors which may be involved, in one way or another, in the valorisation and, or utilization of their genetic resources.</i>
L2. What kind of species, taxonomic inventories exist?	<i>The potential for ABS-related activities (and thus ABS agreements) is also linked to the availability of information for possible users. The idea here is to get a sense of existing information and interest.</i>
L3. Do you know of any projects or ongoing collaborations dealing with biodiversity-based R&D? This may involve universities, research institutes and/or companies. Provide details.	<i>These are arrangements and/or collaborations with potential of becoming government-recognized ABS agreement. It won't be possible to obtain comprehensive information, but a general idea of some of the lower hanging fruit for ABS agreements.</i>
L4. What are human and physical resources, regulatory and policy frameworks for R&D partnerships?	
<b>M. Stakeholder involvement and capacities</b>	
M1. Can you identify experts or institutions related to R&D on biological and/or genetic resources and associated traditional knowledge? (e.g. university researchers, national research institutions, NGOs, IPLC associations)	<i>The aim is determining the potential for ABS-related activities and agreements based on existing capacities and infrastructure.</i>
M2. Are you aware of any national companies, entities or individuals holding patents linked to biological and/or genetic resources?	<i>Patent documents are a good source of information to identify R&amp;D actors.</i>
M3.Can you identify companies and/or institutions engaged in biodiversity-	<i>Most countries have a limited picture of national actors which may be involved,</i>



based R&D or commercialization? What are their activities and capacities in this field?	<i>in one way or another, in the valorisation and, or utilization of their genetic resources.</i>
<b>N. Commercialization and trade</b>	
N1. Do you know of any sourcing and/or supply chains of biological resources for use in pharmaceutical, biotech, specialty food, cosmetic products? Provide details.	<i>Information on existing use of biological and/or genetic resources though it won't be comprehensive information, will provide a general idea of some of the potential and lower hanging fruit for ABS agreements.</i>
N2. What information is available on biological resources currently exported and for what uses?	
<b>O. Broader enabling environment</b>	
O1. In general, what rules and policies would you say present opportunities or challenges for the business conduciveness of the countries? Do you compare with other countries?	<i>Beyond ABS, there may be rules and policies that either facilitate or impede business engagement (e.g. tax incentives, availability of funding, business associations, platforms, protection of minority investors, trading across borders, enforcing contracts). All users point to the need to have a stable and predictable business environment. The aim is to determinate how business friendly the environment is / to get a (self)-assessment of the country with respect to its conduciveness for private sector engagement, at least in relation to other African and other provider countries.</i>
O2. Looking at existing actors and dynamics in the country's economy, which would you say are likely to be the key players involved in or supporting the utilization of GR)?	
O3. Do you take key enabling factors for business" – e.g. those reflected in the WB listing <i>ease of doing business</i> into account when developing your ABS strategy? If so, how?	<i>By discussing the factors it might be possible to get a priorisation of elements of business conduciveness – or why business might be reluctant to engage in partnerships. Possibly other key factors for the country can be identified.</i>
<b>Stakeholder involvement – Cross cutting</b>	
<b>P. Roles and views</b>	
P1. How does the interviewee see his/her own role (or the role of the group/institution he/she represents) in the ABS process(es)?	



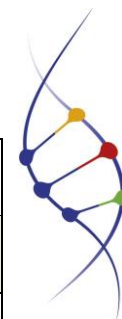
P2. Who else does he/she considers important in these processes?		
P3. How does he/she view the role(s) of these other parties?		
P4. What does he/she think of the capacities of these other parties to get involved and contribute to the process(es)?		
P5. How does he/she perceive his/her own relationship to these other parties?		
P6. How does he/she perceive the relationships between the other parties?		
P7. Where does he/she see potentially conflicting views, interests or action?		
<b>Sources and references</b>		
a.		
b.		
c.		
d.		



## Questionnaire: National institutional and regulatory ABS frameworks

Questions	Points to keep in mind
- Questions highlighted in yellow, are also asked in other questionnaires -	
<b>Ratification / Accession</b>	
<b>A. Process</b>	
A1. What are the remaining steps towards ratification / accession?	<i>The aim is identifying, as specifically as possible, the expected process, timeline and issues pending in the ratification / accession process.</i>
A2. How would you describe the challenges and opportunities in the process of ratification / accession?	
<b>ABS Policies</b>	
<b>B. Existing policies</b>	
B1. What ABS-related policies are already in place?	<i>ABS-related policies would include all principles, statements, strategies and guidelines, issued or recognized by the government, that address issues linked to the valorization and use of biodiversity and/or aTK, ownership or usage rights over biological or genetic resources and/or aTK, the collection, research, development and/or commercialization of biodiversity-based knowledge, products or services. ABS may be the main issue in the policy or only one of the elements in a broader policy, such as a sustainable forestry strategy or biotechnology policy.</i>
B2. To what extent do existing policies address ABS (for example, addressing ownership rights over genetic resources or aTK or establishing principles for benefit sharing)? <ul style="list-style-type: none"> <li>To what extent would you say existing policies are consistent with the NP?</li> <li>Are the AU Guidelines reflected in the ABS policy? If yes, to which extent?</li> </ul>	
<b>C. Evolving policies</b>	
C1. Is any development or revision of ABS-related policies ongoing? Please provide details of the content and process for such development and revision.	<i>The aim is identifying, as specifically as possible, the expected objective, process, timeline and issues to be addressed.</i>
C2. What are current plans to make new or revised policies consistent with the	





NP and the AU ABS guidelines?	
<b>D. Participation</b>	
D1. How would you describe the participation of stakeholders within public, private, academic and other sectors in developing ABS-related policies?	<i>The aim is identifying the main groups involved, the way in which they contribute, and their perceived interests and influence.</i>
D2. In your opinion, how could stakeholder participation be enhanced?	
<b>Regulatory frameworks</b>	
<b>E. Existing ABS laws and regulations</b>	
E1. Are there ABS-related laws or regulations and to what extent are they consistent with the NP?	<i>ABS-related laws and regulations would include legal documents such as constitutions, laws, decrees, acts and regulations issued by the government, that address issues linked to the ownership, usage and/or consultation rights over biological or genetic resources and/or aTK; authorizations to collect, cultivate, use, research, develop and/or commercialize biodiversity-based knowledge, products or services; and/or rules on the sharing of information, monetary and/or non-monetary and other related benefits. ABS may be the main issue in the legal document or only one of the elements in a broader document, such as a protected area regulation or fisheries law.</i>
E2. To what extent do existing laws or regulations address ABS (for example, addressing ownership rights over genetic resources or aTK or requiring permits for the collection or research of biodiversity)?	
E3. Are there any references or requirements on ex-situ collections in these ABS-related laws and regulations? How does the country deal with ex-situ collections outside of the country?	
E4. How would you describe the participation of stakeholders within public, private, academic and other sectors in developing ABS-related laws and regulations?	
E5. What would you say is the perception of different groups of stakeholders of ABS-related laws and regulations (e.g. with regards to usefulness and transaction costs)?	
<b>F. Permitting process</b>	



F1. Are there any permitting processes that relate to ABS (e.g. in sectors such as protected areas, wild collection, procedures for ex situ access, research projects)?	<i>ABS-related permitting processes would refer to activities that require licenses or permits and the procedures put in place to obtain such authorizations. For example, authorizations to collect biological resources from protected or public lands, permits for export of samples of biological material, etcetera.</i>
F2. How would you describe the steps, sequences, procedures, timelines in these ABS-related permitting processes?	
<b>G. Evolving ABS laws and regulations</b>	
G1. Is any development or revision of ABS-related laws and regulations ongoing? Please provide details of the content and process for such development and revision.	<i>The aim is identifying, as specifically as possible, the expected objective, process, timeline and issues to be addressed, as well as the groups of stakeholders involved.</i>
G2. What are concrete steps taken to develop or revise ABS-laws and regulations to ensure compliance with the NP?	
G3. How would you describe the participation of stakeholders within public, private, academic and other sectors in developing ABS-related laws and regulations?	
G4. In your opinion, how could stakeholder participation be enhanced?	
<b>Institutional set-up including information exchange</b>	
<b>H. Existing institutional set-up</b>	
H1. How are different institutions involved in ABS-related laws, policies and permits?	<i>The aim is identifying, as specifically as possible, how government entities manage and coordinate ABS-related issues, particularly in relation to other stakeholders.</i>
H2. Is there any formal and/or informal coordination between these institutions?	
H3. Which institution(s) play(s) the role of CNA?	



H4. Which institution(s) provide information and/or guidance to stakeholders on ABS-related issues?	
H5. What would you say is the perception of different groups of stakeholders of ABS-related institutions (e.g. with regards to effective functioning)?	
<b>I. Evolving institutional set-up</b>	
I1. Are there any plans or ideas to revise the set-up of institutions involved in ABS-related laws, policies and permits?	<i>The aim is identifying, as specifically as possible, the expected objective, structures and timelines for reform.</i>
<b>Traditional knowledge</b>	
<b>J. Some questions from the IPLC questionnaire</b>	
J1. What is the legal status and definitions of (1) indigenous peoples, (2) local communities / certain local communities?	<i>The aim is to gather specific information on the role, rights, and consideration of issues linked to IPLCs in existing and evolving laws, policies and permitting processes linked to ABS. This aim should be kept in mind also when asking broader questions about these laws, policies, and permitting processes.</i>
J2. Which legal rights over GR and / or TK do IPLCs have?	
J3. Is there legislation for TK protection? If yes, which?	
J4. Are there community protocols or comparable procedures on access to GR and/or TK and BS?	
J5. What is the role of IPLCs in granting PIC and negotiating MAT? (also to GR)?	
<b>Transboundary issues</b>	
<b>K. Overview</b>	
K1. Do any of the ABS-related laws or policies address cross-border issues or collaboration?	<i>The aim is to gather specific information on any consideration of transboundary issues in broader ABS-related laws, policies, permitting processes or institutions.</i>



K2. Are there any other mechanisms in place to address share biological and/or genetic resources across jurisdictions?	
<b>Valorization strategy and value chain development</b>	
<b>L. Overview</b>	
L1. To what extent is the valorization of biological and/or genetic resources considered in ABS-related laws, policies and permitting processes?	<i>Valorization of biological and/or genetic resources refers to strategies, policies, programs or rules aiming to add value to biodiversity through activities such as research, product or service development, supply chain development, local value addition, partnerships, certification and verification, and/or marketing.</i>
<b>Stakeholder involvement – Cross cutting</b>	
<b>M. Roles and views</b>	
M1. How does the interviewee see his/her own role (or the role of the group/institution he/she represents) in the ABS process(es)?	
M2. Who else does he/she considers important in these processes?	
M3. How does he/she view the role(s) of these other parties?	
M4. What does he/she think of the capacities of these other parties to get involved and contribute to the process(es)?	
M5. How does he/she perceive his/her own relationship to these other parties?	
M6. How does he/she perceive the relationships between the other parties?	
M7. Where does he/she see potentially conflicting views, interests or action?	





Relevant sources and references		
e.		
f.		
g.		
h.		



*Questionnaire: Effective participation of IPLCs based on BCPs and community procedures*

<b>Questions</b> <i>- Questions highlighted in yellow, are also asked in other questionnaires -</i>	<b>Rationale</b>
<b>ABS Policies</b>	
<b>A. Policy issues</b>	
A1. How are IPLC-issues reflected in national ABS-related policies?	<i>ABS-related policies would include all principles, statements, strategies and guidelines, issued or recognized by the government, that address issues linked to the valorization and use of biodiversity and/or aTK, ownership or usage rights over biological or genetic resources and/or aTK, the collection, research, development and/or commercialization of biodiversity-based knowledge, products or services. ABS may be the main issue in the policy or only one of the elements in a broader policy, such as a sustainable forestry strategy or biotechnology policy.</i>
A2. Are there any national ABS-related strategies developed or recognized by IPLCs? If yes, which?	
A3. What rules exist regarding the sharing and use of benefits obtained from ABS cases? (e.g. what purposes can the benefits be used for; any distribution rules, defined groups of beneficiaries)	
<b>Stakeholder involvement and capacities</b>	
A4. How were / will IPLCs (be) involved in developing ABS-related policies?	
A5. Is there any formal political representation of IPLCs?	
A6. What is IPLC involvement in decision-making about the distribution of financial, technical and technological support as elements of benefit sharing at local level?	
<b>Regulatory Framework</b>	
<b>B. Legal status of IPLCs</b>	



B1. What are the relevant rights of IPLCs at the level of the constitution?	
B2. What is the legal status and definitions of (1) indigenous peoples, (2) local communities / certain local communities?	
<b>C. Resource rights of IPLCs</b>	
C1. Which legal rights (ownership, use, permission to access, right to share in benefits derived from use) do IPLCs have in existing legislation (e.g. land, forestry, agriculture, fisheries, wildlife laws or regulations)?	
C2. Which legal rights over GR and / or TK do IPLCs have under existing relation?	
C3. What procedural rights exist? (e.g. (F) PIC, participation, consultation, etc.)	
<b>D. Protection of TK</b>	
D1. Is there legislation for TK protection? If yes, which?	
D2. What is the scope of this legislation (e.g. types of TK covered)?	
<b>E. Customary rights</b>	
E1. Are there examples of legislation that protect customary rights? If yes, which?	
E2. Which institutions exist that deal with customary rights?	
E3. Are there community protocols or comparable procedures on access to GR and/or TK and BS?	
E4. Are there other types of bottom-up community documents or procedures on resources /TK?	



E5. To what extent are community protocols / procedures recognized by the state?	
<b>F. ABS legislation</b>	
F1. To which extent do ABS-related laws and regulations cover TK?	<i>ABS-related laws and regulations would include legal documents such as constitutions, laws, decrees, acts and regulations issued by the government, that address issues linked to the ownership, usage and/or consultation rights over biological or genetic resources and/or aTK; authorizations to collect, cultivate, use, research, develop and/or commercialize biodiversity-based knowledge, products or services; and/or rules on the sharing of information, monetary and/or non-monetary and other related benefits. ABS may be the main issue in the legal document or only one of the elements in a broader document, such as a protected area regulation or fisheries law.</i>
F2. To which extent do ABS-related laws and regulations refer to IPLCs	
F3. What is the role of IPLCs in granting PIC and negotiating MAT? (also to GR)?	
<b>G. Representation</b>	
G1. How were / will IPLCs (be) involved in developing the ABS-related laws and regulations?	
G2. Is there any formal political representation of IPLCs?	
<b>Institutional set-up including information exchange</b>	
<b>H. IPLC organisations</b>	
H1. Which IPLC networks / organisations exist in the country?	<i>The aim is to map IPLCs institutions, their relationship with other actors and their effective involvement on ABS issues.</i>
H2. What is the nature and scope of work of these institutions, e.g. community groups, NGOs, local governments; e.g. advocacy, exchange, learning?	
H3. Which IPLC organisations are in partnerships with e.g. Ministry, NGOs, etc.?	





H4. Are there specific IPLC women's networks? If so, which?	
H5. Which of the IPLC organisations in the country are part of regional IPLC networks?	
<b>Stakeholder involvement and capacities</b>	
H6. Which IPLC networks / organisations deal with ABS issues?	
H7. Which are the most relevant supporting CBOs / NGOs supporting IPLCs on issues linked to ABS?	
H8. How are IPLCs represented in ABS-related permitting processes?	
H9. What has been going well so far in these processes? What have been challenges?	
<b>I. Inventories</b>	
I1. Is there any database, inventory or other initiative that collects, documents and systematizes aTK (e.g. in relation to traditional seeds, animal breeds or medicinal knowledge? If yes, please describe.	<i>The aim is defining the potential for ABS issues to arise in relation to biological and/or genetic resources and aTK held by IPLCs but also gathered in ex-situ collection</i>
I2. What types of TK are included? (e.g. widely shared; shared within certain groups; secret knowledge)	
I3. To which extent do these inventories have policies or procedures to ensure compliance with ABS principles (e.g. PIC for access, benefit-sharing for utilisation)?	
<b>Transboundary issues</b>	
<b>J. Overview on transboundary issues</b>	



J1. To which degree are transboundary issues relevant for IPLCs (e.g. because they share cultures, resources or aTK)?	<i>The aim is to identify possible overlap and potential for cooperation and/or conflict in IPLCs sharing biological and/or genetic resources and aTK across borders.</i>
J2. How are transboundary issues addressed by IPLCs (e.g. through cooperation, discussion)	
J3. Are there any ABS-related laws or policies concerning transboundary TK?	
<b>Valorization strategy and value chain development</b>	
<b>K. Strategies</b>	
K1. How do any strategies, policies or programs for the valorization of biological and/or genetic resources address the rights, needs and interests of IPLCs, including in relation to aTK?	<i>The aim is to specifically determine whether and how biological and/or genetic resources and aTK are considered in these strategies, policies and programs.</i>  <i>Valorization of biological and/or genetic resources refers to strategies, policies, programs or rules aiming to add value to biodiversity through activities such as research, product or service development, supply chain development, local value addition, partnerships, certification and verification, and/or marketing.</i>
K2. In particular, how do these strategies, policies or programs address different types of aTK (for example, widely shared / shared within certain groups / secret knowledge)?	
K3. What perceptions exist regarding potential opportunities, challenges, risks and benefits in develop value chains based on aTK?	
<b>L. R&amp;D and trade</b>	
L1. Are there any existing ABS agreements involving IPLCs?	
L2. Are there biodiversity-based research, development or commercialization projects involving IPLCs?	
L3. Which research projects in the country use aTK and/or community-managed/owned GR?	
L4. Which commercial products based on aTK and/or community-managed/owned GR are sold in the country?	



Stakeholder involvement – Cross cutting		
<b>M. Roles and views</b>		
M1. How does the interviewee see his/her own role (or the role of the group/institution he/she represents) in the ABS process(es)?		
M2. Who else does he/she considers important in these processes?		
M3. How does he/she view the role(s) of these other parties?		
M4. What does he/she think of the capacities of these other parties to get involved and contribute to the process(es)?		
M5. How does he/she perceive his/her own relationship to these other parties?		
M6. How does he/she perceive the relationships between the other parties?		
M7. Where does he/she see potentially conflicting views, interests or action?		
<b>Sources and references</b>		
a.		
b.		
c.		
d.		

## **Annex B: Summary Findings of Country Diagnostics**

### **Country Assessment Report: Algeria**

#### **1. General background information**

Team members: Suhel al-Janabi, Julien Chupin, Eva Fenster, Frederic Perron-Welch

Date of the country Assessment: 18 -22 October 2015

#### **2. Synthesis of information gathered through the interviews**

##### **2.1 Summary of findings: ABS Frameworks**

- Algeria is a Party to the CBD, but has only signed the Nagoya Protocol. Ratification is on the agenda but is unlikely to happen in the coming 12 months.
- The main legal framework is provided by Law 2014-07 on Biological Resources, adopted on 9 August 2014, which aims to create the conditions for the collection, circulation and use of biological resources (BR) and aTK for sustainable and beneficial development in the national interest.
- It contains a number of provisions on ABS, but eight regulations must be adopted under the law to make it operational, and more. Six of the regulations have been developed by the Ministry of Environment (MREE; the GIZ partner in the GENBI project) and submitted to the general secretariat for the government (SGG).
- The draft regulations cover: the composition, attributes and modalities of operation of the national administrative organ responsible for BR; the model and content of the permit for access to BR for commercial or scientific purposes; the content of dossiers for requests for access to BR, the documents required for prospection, collection or sampling for scientific or commercial purposes, as well as the conditions, clauses or modalities relative to the engagements made by the requestor; the modalities of obtaining PIC from local authorities, professional organizations, associations, and/or holders of BR and aTK; the content and modalities for managing the public register of BR and access requests; and the function, use and management of the national authority's database on BR and aTK.
- The remaining two regulations are still in development at the MREE. They will cover the involvement of Algerian scientists in research and the banking of duplicate samples in national gene banks, as well as the mechanisms for fair and equitable benefit sharing resulting from the use of BR and aTK.
- The regulatory texts will be reviewed by other ministries at the SGG, including the MADRP/DGF (focal point for UNDP NP project), leaving space for input and support to the regulatory drafting process by the ABS Initiative because it is still underway.
- Regulations must be reviewed to confirm alignment with the AU Guidelines, as well as other national laws on the use of natural resources and heritage need to be considered in this process to ensure coherence, e.g. the laws on protected areas, cultural parks, forests, environment and sustainable development, etc.

##### **2.2 Summary of findings: ABS Agreements- valorisation**

There are no formal ABS agreements. The ABS focal point indicates that there are no access demands. Thus the current process for ABS permits would be ad hoc. There is no valorisation strategy for GR but there are related processes and strategies (e.g. national research, NBAPS, development of new economic opportunities, food safety). It is yet unclear how these strategies aim to valorise for economic purposes the results of scientific research and to close the gap between research and



industry. Overall there is limited connection between different kinds of stakeholders.

There is a dense public research network. There are 36 cities with universities (focusing on basic research) and a range of public “applied” research organizations (e.g. agriculture, forest, marine, botany) with well-trained scientists. Both have foreign public research partners in the region and internationally but very limited contact with the private sector. Some actors have a basic understanding of ABS, but a lot of information and training in this regard needs to be undertaken (-> GIZ and UNDP ABS projects).

There are a range of organisation strongly involved in plant and marine resources research but there is limited research on aTK. It seems that the big national project on pharmaceutical biotechnology developed with the American association of PhARMA has not taken off. However, all these public actors are aligned behind the national objective to diversify the economic activities. There is however various vision of valorisation (e.g. protection, conservation, and commercialisation). Some conduct taxonomy and hold collections, but they have limited visibility. It is unclear whether Algerian actors hold patents. Approximately 1642 species appear in the literature for Algeria, included 552 plant species. Scientific publication data is led by pistachio along with Atlantic cedar and Cork oak.

The potential for ABS-related activities and agreements seems to be limited to non-commercial research in the short run as there are only few connections with private foreign partners. However, considering the strong research base (inc. existing results), the largely unexplored biodiversity (e.g. Sahara) and untapped aTK, there is a strong potential for the economic valorisation of GR. In particular, there is an under explored strengths on Medicinal and Aromatic Plants, including aTK (existing research, producers, and intermediaries in place). More globally, the private sector is just starting to formally improve the exploitation of the renewable natural resources (e.g. bark, agro-industry). The majority of the production is artisanal, with limited industrial equipment for transformation.

The infrastructure to support the development of ABS agreements is yet unclear. However, financing does not appear as a major issue. The competence of the national office for IPR on ABS is unclear. Overall, Algeria has some competitive advantages in terms of its business environment (e.g. geographical position, relative stability). Potential weaknesses include: the flexibility of the rule for foreign investment (with a maximum of 49% for foreigners and 51% for the state), traceability of resources and the limited organization and capacity of producers at the local level.

Traditional knowledge associated to GR (aTK) appears as a potential opportunity, but research institutions and existing inventories are scattered. The lack of a legal framework is hindering the development of R&D on aTK. There is no law regarding the marketing authorisation for phyto-medicines based on aTK but there is one on functional food.

#### **The main gaps identified are:**

- Limited connection between actors and stakeholders.
- Insufficient knowledge of markets, IP Instruments and business models of users of GR

### **2.3 Summary of findings: Effective participation of IPLCs based on BCPs and community procedures**

- There are no representative networks of local communities (“populations locales”) and of TK holders in Algeria. While the number of organizations representing civil society in Algeria is significant, the operational and sustainable presence of these organizations poses problems due to a lack of strategy and resources. The organizations are neither fully recognized nor functional.
- The NGO *Green Ground Seraidi* that was interviewed during the country assessment is not representative of the larger landscape of organizations. Information from other relevant organizations (such as the Federation of farmers, fishers, the National Association for the

Advancement of Rural Women) and other members of civil society (industry, investors, specialized chambers: agriculture, industry, trade) is necessary to obtain a comprehensive overview of civil society organizations in the country.

- One of the main gaps is the lack of legislation for the protection of TK. However, Algeria was one of the earliest adopters of the UNESCO Convention on the Safeguarding of the Intangible Cultural Heritage, and has some experience with cataloguing traditional practices.
- There are not many community rights stated in Algeria. A part of the population possesses specific customary and traditional rights, stemming from religious customs or community life for example. There are specific rights depending on the region. According to Forestry Law N° 84-12 of 23 June 1984, local populations have forest usage rights. Forests are subject to development plans determined by the responsible Minister after consultation with local authorities in accordance with national and regional planning policy (see Article 37 Forestry Law). Other relevant laws include *Loi N°03-10 relative à la protection de l'environnement dans le cadre du développement durable*, *Loi N° 2001-20 du 12/12/2001 relative à l'aménagement et le développement durable du territoire*.
- Diverse forms of governance of biodiversity exist, e.g. for cultural parks (covering 44% of the country), natural parks and protected areas. A public administrative body (EPA) is responsible for the management of the largest park in the north of the country (El Kala National Park). Lessons can be learnt from the governance of cultural parks on the modalities of involvement of local populations (e.g. project *Tassili Ahaggar*). The parks in the south of Algeria are well suited for pilot projects.
- Valorisation of intangible heritage occurs and is considered a key objective. To this end, inventories on intangible heritage (including aTK) shall be set up. Up to now, aTK is not well documented in Algeria, neither by TK holders nor by institutions.
- Training and capacity building is taking place in a rural setting via *Integrated Rural Development Projects* (Projets de Proximité de Développement Rural Intégré, PPDRI) which are funded by the Ministry of Agriculture and Rural Development (MADR) as well as through other projects, e.g. funded by the Ministry of the Interior and Local Authorities.
- Directorates are developing new, participatory approaches for local governance. A General Directorate is dedicated to the modernization of services to citizens and to local development. Close cooperation with these institutions is advisable.

### 3. Final observations/ conclusions and way forward

#### Strengths

- Law 2014-07 on Biological Resources sets the conditions for access to, circulation, transfer and valuation of its biodiversity. Key ministries will review the law's eight implementing regulations allowing for the integration of comments by a number of important stakeholders on the topic.
- Rich biodiversity (endemism in Sahara), a large diversity of ecosystems as well as untapped aTK
- A strong research community with research results to valorise
- A strong willingness to diversify the economy and ensure food safety, with related resources allocated by government.
- Network on Medicinal and Aromatic Plants (producers, research, distribution)
- The Ministry of Agriculture and Rural Development (MADR) integrates environmental protection and the conservation and valuation of local biodiversity into its discussions with rural localities in the context of integrated development projects and has a four-year UNDP-GEF project on the Nagoya Protocol starting in 2016.

#### Weaknesses

- Poor communication amongst ABS-related institutions
- No legislation for TK protection, just a typical IP system for patents etc. and some registration of intangible cultural heritage with UNESCO

- Little applied research and valorisation mostly focused on national market needs. A limited knowledge of the user requirements and foreign market opportunities.
- Low experience of public research actors in R&D and partnership with the private sector and weak organization of supply chains for renewable natural resources.
- No consistent documentation of GR and aTK, neither by TK holders nor by institutions
- No representative networks of local communities and of TK holders

#### Possible interventions at the political level

- Supporting the review of implementing regulations:
  - Help the Ministry of Water Resources and the Environment (MREE) align regulations with the AU Guidelines and the EU Regulations through the SGG review process (multi-ministerial consultation & revision by MREE to reflect comments received). This includes ensuring stakeholders are consulted (e.g. academia, private sector) in the review of the implementing regulations, in collaboration with UNDP-GEF NP project
  - Supporting the development of regulations that are still being drafted (research cooperation & gene banking, and benefit-sharing mechanisms) in cooperation with the UNDP-GEF NP project
- Supporting the integration of ABS in relevant strategies (e.g. SPANB, National Action Plan for the Environment and Sustainable Development, etc.) with linkages on valorisation, IPLC and aTK.
- Supporting the creation of a multidisciplinary advisory committee for ABS
- Setting up a working group for the coordination of the GIZ « GENBI » programme and the UNDP project with participation of the General Directorate of Forestry (DGF) and the Ministry of Water Resources and the Environment (MREE).
- Training relevant people across the Ministries on user and provider challenges in doing R&D to smooth the permitting system.

#### Possible interventions at technical level

- Capacity building on ABS for domestic lawyers (legal trainings, exchanges of best practices with other countries)
- Setting the foundation of a valorisation strategy for GR and aTK
- Developing ABS agreements to create practical experiences (non-commercial research) – with interested foreign users and/or based on existing public research collaborations
- Realising a meta inventory of the aTK inventories and the main research institutions
- Conducting awareness-raising workshops / trainings at central and Ministries level with the objective of establishing a common Algerian vision on ABS and valorisation
- Conducting an educational journey for Algerian stakeholders to Namibia / Morocco / Madagascar / South Africa for learning lessons from various approaches to ABS frameworks, permitting system, valorization, strategies and case studies.
- Supporting the development of a pilot project for ABS implementation based on existing collaborations (e.g. SAIDAL, University of Constantine).
- Developing trainings (basic and targeted) for relevant ABS actors

## Country Assessment Report: Benin

### 1. General background information

Team members: Julien Chupin, Eva Fenster, Lena Fey, Barbara Lassen

Date of the country Assessment: 31 August – 04 September 2015

### 2. Synthesis of information gathered through the interviews

#### 2.1 Summary of findings: ABS Frameworks

Benin ratified the Nagoya Protocol on 22 January 2014 and adopted a national ABS strategy for the implementation of the Nagoya Protocol with an operational framework that aims to guide the country in the elaboration of its national ABS regime; in this strategy, Benin committed to putting in place a national ABS legal and institutional framework. Moreover, ABS is being referred to in the national biodiversity strategy and action plan for the period 2011 to 2020. Benin has a national ABS committee (composed of stakeholders from nine key Ministries, NGOs, laboratories and research centres, holders of TK, local communities and the private sector) which monitors the implementation of the national ABS strategy. While there is no overarching piece of legislation that governs ABS in Benin, several laws contain provisions on ABS: concerning the sharing of benefits, see for instance the principle of distribution of revenues from the exploitation of timber and other forest products stipulated in Article 46 of the forestry law 93-009 of 2 July 93 or the requirement of researchers to communicate the results of their research to national authorities (e.g. Article 61 framework law No. 2014-19 of August 7, 2014 on fisheries and aquaculture). With respect to participation and consent, a fundamental principle of the national forestry policy is a participatory management of the forest, involving the local riparian population (Article 26 of Decree No. 96-271 of 02.07.96 of forestry law). Currently, a review of the forestry law No. 93-009 of July 2, 1993 is underway and the framework law No. 2014-19 of August 7, 2014 on fisheries and aquaculture is being amended through implementing decrees. For the former, stakeholders envisage including provisions on ABS during the revision process.

One of the main challenges in Benin is the lack of legal and regulatory framework on ABS. Although environmental legislation addresses some aspects of ABS, the focus is on the protection and conservation of resources. Benin also does not have specific legislation that protects the interests and rights of traditional knowledge holders. In addition, a mechanism to address the issue of shared resources and TK across different jurisdictions has yet to be established. The permitting system in Benin is relatively bureaucratic. Many institutions (e.g. Min. of Environment; Research; Agriculture; Health, etc.) are entitled to give permission to access and use GR for basic research, bio-prospecting and commercialization, depending on the type of species (e.g. forestry, agriculture or wild animals). Permitting procedures are not always clear and have the potential of deterring users from requesting access.

Strengths/Opportunities	Weaknesses/Gaps
<ul style="list-style-type: none"><li>– ABS Strategy is in place</li><li>– Functioning, inclusive ABS Committee facilitates communication across various Ministries and stakeholder groups</li><li>– Models for benefit sharing exist in the forestry legislation and in the protected area context</li><li>– The principle of participation is part of the national forestry policy</li></ul>	<ul style="list-style-type: none"><li>– Lack of a legal and regulatory framework on ABS (e.g. process to obtain PIC and MAT, CNA)</li><li>– No specific legislation protecting the interests and rights of traditional knowledge holders</li><li>– No mechanism in place to address the issue of shared resources and TK across different jurisdictions</li><li>– Bureaucratic permitting system, many institutions across different ministries entitled to give permission to access and use GR for basic research, bio-prospecting and commercialization,</li></ul>

	depending on the type of species. Permitting procedures are not always clear and may deter users from requesting access.
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### Recommendations:

- Develop an interim ABS legislation to ensure legal certainty for both users and providers of GR and aTK and facilitate the negotiation of MAT in the period prior to the development of a full-fledged ABS law. The legal provisions that refer to ABS in national legislation could be exploited for this purpose.
- Develop a legal and regulatory framework protecting TK, inter alia through the establishment of community IP rights.
- Given that ABS is a new and complex topic, capacity building activities for national lawyers in the form of legal trainings and exchanges of best practices with other countries are strongly recommended.
- Support the designation and set up of a competent national authority with clearly defined responsibilities.
- Clarify and simplify permitting procedures.
- Engage neighbour countries to clarify issue of transboundary resources and knowledge.
- Set in place checkpoints to support compliance and monitor the utilization of GR and aTK.

## 2.2 Summary of findings: ABS Agreements- valorisation

The diagnostic focused on actors in the plants and agriculture sector, mostly members of the national ABS committee. Limited analysis was carried out in the livestock and marine sectors due to time constraint.

There have been no formal ABS agreements in Benin so far. The ABS focal point indicates that there are a few demands from public research institutions operating with foreign public partners.

The potential for ABS-related activities and agreements is limited to around 20 domestic actors who are able to provide GR and/or aTK and to conduct basic research. Most of these actors have at least a basic understanding of ABS. Some conduct taxonomy and hold collections, but they have limited visibility. There are very few Beninese actors holding patents. The majority of public research institutions focus on basic research. They have foreign public research partners and limited contact with the private sector. There are one company (API), an NGO (Songhai) and several international research organisations (AfricaRice, International Institute for Tropical Agriculture, Bioversity International and CIRAD) present in Benin that offer potential for developing ABS agreements. The agricultural sector, with the production of cash crops, is not stimulating the national research.

The infrastructure to support the development of ABS agreements is limited. A newly created agency for the valorisation of research results and innovation and Bioversity International stand out as potential supporters. The competence of the national office for IPR on ABS is unclear. Overall, Benin has some competitive advantages in terms of its business environment (e.g. geographical position, stability), but the issue of corruption was regularly mentioned as a shortcoming.

Traditional knowledge associated to GR (aTK) appears as a core research area, but research institutions and existing inventories are scattered. The Laboratoire de Pharmacognosie of the CBRST has entered into research partnerships with universities abroad to research the active components of traditionally used plants, for example for Malaria. The laboratory also collaborates with traditional healers (e.g. in Bonou, see below) by providing non-toxicity tests and supporting healers to improve their products. However, this remains the first initiative to validate aTK so far and it cannot meet the needs at the national level. Generally, the lack of a legal framework is hindering the development of R&D on aTK. There is recognition of aTK by the government for health purposes. A new law is under development regarding the marketing authorisation for phytomedicines based on aTK. This would



offer national and regional economic opportunities.

There is no valorisation strategy for GR. A national research strategy is under development identifying priority themes (i.e. agro-industry, health, food safety, environment and climate change, energy, transport, digital economy). Beyond structural issues (e.g. poor governance, low coordination, lack of financing), the strategy to valorise the scientific results and to close the gap between research and industry is yet unclear.

Overall, a range of economic opportunities for the valorisation of GR and aTK could be identified:

- Agriculture and aTK in phytomedicine present opportunities for developing ABS agreements.
- Two companies expressed an interest towards the ABS Initiative and/or the Ministry of Environment in conducting R&D on 2 species.
- One valorisation opportunity could be further explored with the GIZ programme on agriculture (ProAgri).
- The analysis of the 'The Scientific Landscape for ABS in Benin' allows identifying core research areas<sup>3</sup> of relevance to a valorisation strategy.

Strengths/Opportunities	Weaknesses/Gaps
<ul style="list-style-type: none"> <li>– Relatively high level research on aTK</li> <li>– Good infrastructure and human resources for basic research in agriculture, health and plants</li> <li>– National strategies for agriculture and health</li> <li>– National research strategy under development, but lack of financial endowment</li> <li>– Two leaders for valorisation (medicinal plants: API; agriculture: Songhaï) and presence of two international actors (AfricaRice, Bioversity)</li> <li>– Overall, social and political stability</li> <li>– A range of research collaborations with potential for upgrading to ABS agreements (incl. GIZ ProAgri project)</li> <li>– Understanding at the ABS focal point level that ABS contracts are contingent and do not follow a single scheme</li> <li>– Market opportunities for phytomedicines (based on aTK) in the sub region</li> <li>– Support of international donors to agro-value chains is an opportunity to integrate ABS and R&amp;D.</li> </ul>	<ul style="list-style-type: none"> <li>– Low level of endemism, biodiversity and potentially aTK are shared in sub region</li> <li>– <u>Disconnection between the country's development needs, research and the private sector</u> – especially the cash crop industry is not stimulating national research (e.g. shea butter)</li> <li>– <u>Lack of trust</u> between knowledge holders, public researchers and companies which tend to limit exchanges. This is due to the lack of a legal framework defining aTK and the actors' rights</li> <li>– <u>Lack of financial resources</u> for TK holders to scientifically test the efficacy of their recipes, as well as for actors to kick start small 'industrial' production. Production remains artisanal</li> <li>– <u>Few actors have the capacity to lead ABS agreements with local communities</u>. Potential actors have limited resources to invest in R&amp;D and even less to finance community protocols</li> <li>– Limited capacity to translate research on aTK into products due to lack of regulatory framework and business with investment capacity</li> <li>– Very low experience of public research actors in R&amp;D and partnership with the private sector (e.g. contracts, user requirements)</li> <li>– Limited visibility of existing collections (GR, aTK) and research results in Benin reduces potential for new partnerships</li> <li>– Few access demands for ABS and samples</li> </ul>

#### Recommendations:

- **Develop ABS agreements** based on existing public and private research collaborations: Create experiences through pilot non-commercial and commercial research cases as a basis to clarify access procedures. Explore further valorisation opportunities (e.g. through GIZ ProAgri) and consider promotion of CIRAD guide on non-commercial R&D developed in

<sup>3</sup> [https://public.tableau.com/profile/poldham#!/vizhome/Benin\\_0/Story1](https://public.tableau.com/profile/poldham#!/vizhome/Benin_0/Story1)

Madagascar.

- **Set the foundation for a valorisation strategy for GR and aTK:**

Strategy: Integrate a valorisation component in the national research strategy; Carry out an assessment of the R&D needs for the 14 priority agricultural value chains; Further clarify the ability of leading R&D actors to meet users' R&D requirements and the gaps in the support system (e.g. business, legal, administrative); Realise a case study on API to understand business success factors for aTK valorisation and the regional market development; Bring together academia, communities and commerce in a forum aimed at promoting key research findings, understanding the needs and leading to investment interest at national, regional and international level which can feed into the valorisation road map; Identify means to improve the international visibility of research findings, collections and research organisations (e.g. website); Consider carrying out a study on the links between patent documents, value chains and markets in Benin.

Implementation: Develop a TK protection system; set up an incubation process for SMEs providing early R&D tests to confirm efficacy of recipes; conduct business capacity building to feed into a national TK strategy; Create a meta-inventory of the aTK inventories and the research institutions.

## **2.3 Summary of findings: Effective participation of IPLCs based on BCPs and community procedures**

Benin has undertaken several steps to pilot the role of local communities and the valorisation of TK. The national ABS policy was developed through a participatory process in which some TK holders, as well as civil society organizations that work with local communities, were involved. This policy proposes several actions related to local communities and TK, such as to clarify the rights of communities to GR and aTK, establish a framework for TK protection, and move towards legal recognition of Biocultural Community Protocols (BCPs). In parallel, the NGO CESAREN, through a grant by the ABS Initiative, is facilitating the development of a BCP in Bonou, in the Ouémé region, around the management of two sacred forests and to valorise the TK associated with the genetic resources of the community through future ABS value chains.

While Benin does not necessarily have a comparative advantage where GR are concerned (with a low number of endemic species and most GR shared with neighbouring countries), it does in terms of traditional knowledge. Indeed actors agree that there is a high density of medicinal and other TK associated with the resources of the country, some held at the level of communities and some individually by traditional healers. Moreover, traditional healers are well organized through the national association ANAPRAMETRAB, which is officially recognized by the government, and there is a close collaboration between the healers and the service in charge of traditional medicine at the Ministry of Health. There are many traditional medicinal products that are already being valorised at the local and national level and sold in pharmacies throughout the country and the subregion.

It is less clear how much valorisation and research is being conducted on GR for food and agriculture and associated TK, although civil society organizations have been active in supporting local communities for example to develop seed banks.

A key concern mentioned by stakeholders is the lack of legal protection of TK, and the development of a framework in this sense would be necessary in order to improve the trust between TK holders and researchers and empower TK holders to valorise their knowledge.

Another issue that needs to be clarified is the situation of rights of local communities to GR. The land and resource rights situation at the moment is a complex interface between customary land rights and legal land and use rights which would probably need to be clarified for PIC and BS processes where GR on community lands are concerned.

Finally, the actors have started a dialogue process around the development of a database of GR and aTK, which will have to be continued. So far there is no organized documentation system on aTK, the information is scattered between various institutions, and the terms for access to this information are

unclear.

Strengths/Opportunities	Weaknesses/Gaps
<ul style="list-style-type: none"> <li>– High level of organization of traditional healers, recognition and support through the Ministry of Health</li> <li>– Under development: legal framework for market authorizations for improved traditional medicinal products</li> <li>– In-situ conservation of used GR through (local) botanical gardens</li> <li>– First dialogues on national TK database with community involvement are taking place</li> <li>– Customary authorities respected and involved in decision-making to a certain point</li> <li>– Existing research initiatives on medicinal plants collaborate with traditional healers</li> <li>– Existing traditional medicinal products sold on the domestic market</li> <li>– Pilot BCP project in Bonou through CESAREN</li> </ul>	<ul style="list-style-type: none"> <li>– No legislation for TK protection, IP system not adapted to TK holders' needs</li> <li>– No consistent documentation of GR and aTK, neither by TK holders nor by institutions</li> <li>– No representative networks of local communities and of TK holders outside of officially recognized traditional healers</li> <li>– Lack of capacity of TK holders to market their TK</li> <li>– No contracts between research institutions and TK holders, perceived lack of transparency and trust</li> <li>– Unclear land and resource rights</li> <li>– Overexploitation of certain valuable medicinal resources</li> </ul>

### 3. Final observations/ conclusions and way forward

With its existing ABS Strategy and a relatively well-functioning and inclusive ABS Committee, Benin has a good institutional basis to set up its regulatory system, competent national authority and checkpoints to establish the necessary frame for ABS. There are activities happening in domestic research as well as among TK holders to valorise, predominantly, aTK (which can be seen as a competitive advantage) and, to a lesser extent, GR. R&D in the fields of agriculture and health is based on research strategies and supported by international actors, but it is not stimulating the national R&D landscape. GR and aTK databases / inventories are scattered and disconnected from each other; however, a national dialogue process on TK documentation has recently started. Traditional healers are exceptionally well organized and are being supported by the Ministry of Health to validate and market their products nationally and subregionally, as there are market opportunities. In the frame of its forestry policy and law, the Ministry of Environment cooperates with local communities, including participatory management and benefit sharing schemes. A pilot BCP process has been started by CESAREN.

Yet, in the absence of a legal framework on ABS, no ABS agreements have been negotiated so far in Benin. The existing permitting system is highly bureaucratic and unclear, and there are only limited examples of benefit-sharing procedures. Due to its low level of endemism, Benin's comparative advantages are limited when it comes to GR; so far, there have only been a few access requests from abroad. Domestic research on GR and aTK is lacking resources and guidance and is not very visible at the international level. With some exceptions in agriculture and health, it largely works in disconnection from the country's development needs and has few experiences in R&D/cooperating with the private sector. GR and aTK are not consistently documented, neither by TK holders nor by institutions, and existing collections lack visibility. Since there is no legislation for the protection of TK, cooperation between TK holders and researchers is limited and characterised by a lack of trust. Moreover, traditional healers face challenges when it comes to testing, standardising and marketing their products, and some medicinal GR are threatened by unsustainable harvesting. The few potential actors in the country who have the capacity to lead ABS agreements (including with local communities) lack financial capacities. Apart from the officially recognized traditional healers' association, there are no representative networks of local communities and TK holders. The land and resource rights of local communities are unclear.

In discussions with the ABS focal point, members of the ABS Committee and other stakeholders in Benin, a number of activities were identified as priorities for possible interventions of the ABS Initiative which were

compiled in a draft road map for the next two years. Furthermore, CESAREN is already conducting related activities based on a grant by the ABS Initiative which mostly match the abovementioned priorities. A summary of both is provided below:

**Political level:**

- Develop an interim legislation and regulatory framework (interministerial décret/arrêté) on the basis of existing legal provisions referring to ABS --> to be finalized before March 2016 (presidential elections)
- Identify a Competent National Authority, clarify responsibilities for granting access and monitoring compliance, develop a one-stop shop permitting system
- Develop a strategy for the documentation of aTK
- Develop a legal and regulatory framework for the protection of TK, including adequate IP rights
- Set the foundation for a valorisation strategy for GR and aTK

**Technical level:**

- Capacity building on ABS for domestic lawyers (legal trainings, exchanges of best practices with other countries)
- Develop pilot ABS agreements to create practical experiences (commercial and non-commercial research) – with interested foreign users and/or based on existing public and private research collaborations
- Develop pilot BCPs
- Create a comprehensive database of GR and aTK / meta inventory of databases and research institutions
- Support pilot SMEs in valorising GR and aTK
- Promote dialogue and collaboration among stakeholders (research, TK holders, private sector) aimed at communicating research findings, promoting understanding of respective needs and promoting investment interest nationally, regionally and internationally.

## Country Assessment Report: Kenya

### 1. General background information

Team members: Rose Birgen, Gino Cocchiaro, Hartmut Meyer, Peter Munyi, María Julia Oliva

Date of the country Assessment: 31 August -04 September 2015

### 2. Synthesis of information gathered through the interviews

#### 2.1 Summary of findings: ABS Frameworks

- Several ABS policies and legislations at the federal level are in place or in the parliamentary process. In 2010, constitutional provisions that support ABS legal and policy frameworks at the county level were introduced. Whereas Kenya has ratified the Nagoya Protocol, none of its legislation is compliant with this Protocol nor are the post-Nagoya Protocol policies and legislation either in place or under development.
- Despite ABS policies and legislation being in place, a number of gaps exist:
  - Overlaps in regulatory mandate between institutions, mainly due to scope issues in the existing frameworks. These overlaps have also brought about regulatory competition amongst the relevant institutions, and thus unclarity in the system of which institutions are the competent national authorities and national focal point.
  - There are inadequate provisions on TK associated with genetic resources, and also on the position and responsibilities of indigenous and local communities.
- The research permitting process that is under the stewardship of the NACOSTI is fairly automated. However, the ABS process, which is preceded by the research permitting approval, is not automated. On the ground, both permitting processes do not interact sufficiently. For those research projects that need to secure an ABS permit as well, research permits will be given and are valid without reassurance of the approval of the ABS permit.
- Formalized dialogues between the authorities and stakeholders to increase transparency and seamless operations of the several approval systems do not exist. In addition, no concerted efforts are undertaken to build up capacities at the county level to develop ABS and local consultation systems and to engage with the existing and future ABS procedures at the federal level.

#### 2.2 Summary of findings: ABS Agreements- valorisation

- To date, 55 access permits have been granted by the National Environment Management Authority (NEMA) under the 2006 Environmental Management and Coordination Regulations. The majority involve the Kenya Wildlife Service (KWS) as the lead agency granting prior informed consent and negotiating mutually agreed terms. There are 10 other lead agencies, but their jurisdiction over genetic resources and roles in the ABS process are less clear.
- The process for securing ABS agreements is clear, transparent, and consistently applied. Nevertheless, the overlap with other permitting systems results in unnecessary duplication of paperwork and delays. Moreover, there is limited information and guidance on the ABS process and requirements available to companies and organizations engaged in biodiversity-based research and development.
- There is an increasing focus on biodiversity valorization in Kenya. National policies have recently been put in place, including the 2011 Bioprospecting Strategy and the 2012 Natural Products Industry Policy. There are initiatives such as the Natural Products Initiative, coordinated by the National Museums of Kenya (NMK), which are engaging stakeholders in



various sectors and subjects. Finally, over 30 universities are now actively engaging in applied research on biodiversity, often in partnership with the private sector.

- Kenya also has expertise and experience in negotiating ABS agreements. Entities such as International Centre of Insect Physiology and Ecology (ICIPE), the Kenya Forestry Research Institute (KEFRI), KWS and NMK have negotiated a range of projects and collaborations over the years, from which they have learned and developed capacities, templates and approaches.
- Experience and capacities are much more limited at the local level. No ABS permit to date has involved indigenous peoples or local communities as the provider of genetic resources or associated traditional knowledge. Moreover, though many of the supply chains for natural ingredients sourced in Kenya – from henna (*Lawsonia inermis*), prickly pear (*Opuntia ficus-indica*), and *Aloe vera* to gum arabic (from *Senegalia (Acacia) senegal* and *Vachellia (Acacia) seyal*), essential oils and medicinal plants – involve local communities, few of these value chains follow ethical sourcing practices or receive any kind of certification.

### **2.3 Summary of findings: Effective participation of IPLCs based on BCPs and community procedures**

- The Constitution of Kenya, 2010 has some progressive relevant policies for IPLCs. It recognises marginalised communities, seeks to establish a right to genetic resources and traditional knowledge and gives direction on how to protect IPLC interests. The Constitution provides the framework from which policies and laws affecting marginalised communities in Kenya should be undertaken. In addition, it provides a means by which marginalised communities can participate in the political, policy and law making processes.
- Out of the 55 access-permit applications with NEMA, none relate to aTK. This could mean two things: either aTK is not being accessed as such or users are not complying with the laws. It is likely that it is the latter and thus critical to identify the gaps in the legal process and ensure compliance with the law.
- It has been very difficult to ascertain the sufficiency and effectiveness of the PIC process in relation to community held GRs and/or aTK. Further research is required to understand how communities have been involved in the PIC process. Further, community organisation processes, community level procedures and community protocols do not appear to be effectively and efficiently used for access and utilization of GRs and aTK. It is recommended that government and non-government agencies involved in ABS have information to guide them on meaningful participation with communities.
- There are very few civil society groups involved in ABS processes and, with those that are, there is not good co-ordination. Key groups need to co-ordinate in order to assist with ABS awareness with the wider CSO body in the country as well provide input into the policy and legislative considerations.

### **3. Final observations/ conclusions and way forward**

#### Strengths

- Country with experiences in negotiating ABS agreements
- Good potential to involve local communities due to constitutional reform
- Many scientific institutions and international co-operations that access GR and aTK (at least where published aTK is the trigger to access GR)

#### Weaknesses

- Lack of coordination amongst ABS-related institutions
- Uncoordinated creation of new and overlapping ABS-related laws

- Unclear relation between different levels of providers that could give PIC for the same access: local communities, counties, federal institutions, and the Parliament, that in future might have to agree to any benefit sharing agreement

#### Possible interventions at the political level

- Establishment of a neutral forum for coordination
- Establish ABS forum with international research institutions
- Awareness creation of the gaps respectively overlaps in the ABS legislations, the implications on compliance with the provisions of the Nagoya Protocol and the practical difficulties for access, value chain creation and eventually benefit sharing

#### Possible interventions at technical level

- Conducting a study on material and geographic scope of existing and draft ABS legislation to identify gaps and overlaps, also examining the tasks and roles of county governments and the Commission on Revenue Allocation in the existing framework
- Finalising the study on publication on Kenyan GR and aTK and cross check with the research permit data
- Study with lessons learnt from Kenyan ABS agreements
- Supporting pilot counties in setting up ABS rules and procedures that link to the federal system
- Supporting the negotiation of ABS agreements in pilot counties and capacitating (marginalised / indigenous peoples and local) communities
- Supporting the creation of harmonised IT-based application and monitoring systems with the view to reach a coordinated application system at least for the federal institutions
- Developing awareness raising materials and trainings for the different actors

## Country Assessment Report: Madagascar

### 1. General background information

Team members: Suhel al-Janabi, Olivier Rukundo, Barbara Lassen and Julien Chupin

Date of the country Assessment: 13-17 July 2015

### 2. Synthesis of information gathered through the interviews

#### 2.1 Summary of findings: ABS Frameworks

There is no specific legislation or regulation in the country on ABS.

La Charte de l'environnement malgache, developed in 1990, provides the general framework for implementation of the national environmental policy. It has been overhauled twice, in 1997 and 2004. This text contains however no specific provision on ABS.

Another instrument worth mentioning is the law on the transfer of local management of renewable natural resources which "allows the effective participation of rural populations to the sustainable conservation of exhaustible natural resources"

Madagascar also has legislation to implement the Convention on International Trade in Endangered Species of wild flora threatened with extinction in 1973 - also known as "CITES" Apart from these different legal texts of a general nature, Madagascar does not yet have a specific legal framework or regulations governing ABS. The only existing policy document is a short "lettre politique" which provides the broader framework of an general orientations for the implementation of the NP in Madagascar

A draft interim ABS legislation in the form of decree is under elaboration. A full-fledged legislation will be elaborated later as the decree is intended to cover for the interim period before the legislation is adopted, approved and in force ( a process which can take up to 5 years).

In terms of institutional arrangements, a « comité restreint » comprising of all relevant line Ministries has been established. The comity has held two meetings so far and has provided some guidance on the way forward in terms of the development of the interim measures on ABS.

Furthermore a secondary focal point on ABS has been designed in the Ministry of Environment. The role of this secondary focal point is to assist the current ABS focal point and it is hoped that this will allow the Ministry to be more involved and provide political guidance during the process of implementation

The following provides a summary of strength, weaknesses, opportunities and threats under this component.

Strengths	Weaknesses
<ul style="list-style-type: none"><li>– Technically competent National ABS Focal point who can steer the implementation process</li><li>– Establishment of comite restreint has helped in terms of coordination and information sharing among all the relevant Ministries at this preliminary stage</li></ul>	<ul style="list-style-type: none"><li>– <b>No clear policy/ orientations on ABS</b></li><li>– <b>Absence of an ABS legal/ regulatory framework and procedures</b></li><li>– <b>There is no Competent National Authority that can adequately advice on ccess/ PIC requirements and make the required decisions in terms of granting access.</b></li><li>– <b>Aside of the primary NFP, there is very little expertise on ABS within the Ministry of Environment</b></li></ul>
Opportunities	Threats

<ul style="list-style-type: none"> <li>– Fair level of political will to move the process forward as manifested in the lettre politique</li> <li>– Choice to have interim measures in the form of a decree will provide the necessary flexibility and opportunity to adapt and promote a learning by doing approach in the implementation</li> </ul>	<ul style="list-style-type: none"> <li>– Unstable political climate (frequent changes of Ministers and this also entails frequent shifts/ changes in policy orientations and plans for national implementation.</li> </ul>
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## 2.2 Summary of findings: ABS Agreements- valorisation

As noted above a national ABS framework is under development but there is no ABS law or regulation in place. A voluntary code of conduct on ABS and for non-commercial research was recently developed but it is not widely known among the public research institutions. Most actors have - at a minimum - a basic understanding of ABS, they are however less familiar with user measures such as the EU one. There is ongoing R&D on the country's biodiversity and GR. Public and private actors have projects and international collaborations on biodiversity based R&D. The big picture is that public organisations focus on conservation issues while the private actors tend to react to foreign user demands.

The diagnostic focused on the medicinal and aromatic plant sector with limited analysis of R&D activities in agricultural, livestock, marine, breeding and horticulture due to time constraint. There is a unique valorization expertise among national actors involved in ICBG and a few experienced private actors and NGOs. Furthermore, most actors met have been and are currently using and providing GR for commercial and non-commercial research abroad (e.g. forest, medicinal and aromatic plants, soil, micro-organism, marine resources). Apart from a very few private actors, the capacity to transit from the research to the development phase is limited. The vision under the new research strategy of the Ministry of Research is clearly oriented towards promoting R&D but the lacks necessary financial resources to advance its implementation.

Overall, there is a limited support system. All actors point especially to their lack of capacity to fully reflect ABS aspects in MTAs.

While it is necessary to complete this diagnostic, such as clarifying the activities of the Micet / Valbio center, the following support activities can be undertaken. A preliminary step could be to formalize the lessons learned through bioprospections projects in order to inform the respective strategies and framework (e.g. how trust is built, how to understand users' challenges, what are the possible return on investment). A follow up on the CNRE workshop (August 2015) could be a starting point.

The selection of public and private Malagasy actors, based on their existing research collaborations in markets of relevance to Madagascar, should lead to the **conversion / upgrade of R&D agreements in ABS deals**. The training of relevant public research actors to the ABS code of conduct on non-commercial R&D can be considered, if the code is deemed pertinent. In parallel, a strategy should be developed to address the key gaps in the support areas. For instance, a training should be organised across Ministries on user and provider challenges in doing R&D to ease the permitting system, leading to the formalization of ABS related permitting systems. Low capacity on legal and IPR matters must also be addressed.

A range of activities can be undertaken to **set the foundation of a valorization strategy**. A preliminary step is to improve public and private actor's capacity to understand market needs and to position strategically, for instance by providing training and tools. This could be done also through supporting a forum to engage with the many companies in user markets, sourcing from Madagascar, to identify

research needs and linkages with Malagasy research actors. More generally, the visibility of existing collections and research organizations can be improved. This could lead to a strategy for actively promoting the research results in the markets of relevance. In this perspective, synergies with the GBIF congress<sup>4</sup>, (Madagascar, early October 2015) could be explored. Eventually, the pertinence of pursuing the analysis on the links between patent documents with value chains and markets, based on the study Biodiversity in Patent system, could be considered.

Finally, the table 2 below presents an overview of the country's strengths, weaknesses, opportunities and threats with regard to R&D on GR and their economic valorization. It based on the results obtained during the field mission and on the findings of the study on the economic potential of GR.

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>– <b>High biodiversity</b> with R&amp;D carried out across a range of species</li> <li>– A <b>unique national expertise</b> in bioprospecting with well-trained scientist, equipment and collections (ICBG)</li> <li>– Expertise in a <b>few Malagasy private companies and NGOs</b> for bioprospecting and GR valorization</li> <li>– <b>Some support to the business environment</b></li> <li>– <b>National R&amp;D strategy</b> to better link research and development. But limited funding for its implementation.</li> </ul>	<ul style="list-style-type: none"> <li>– <b>Absence of ABS framework</b> and procedures</li> <li>– <b>Limited understanding of R&amp;D practices</b> and users' challenges at the Ministry of the Environment complicates the inception of the R&amp;D process (e.g. changing and expensive process to obtain export authorization for R&amp;D samples)</li> <li>– <b>Limited expertise in ABS contracts</b> and negotiation</li> <li>– <b>Difficulty to access research results</b> of foreign R&amp;D partners</li> <li>– Research conducted by Public research organization has <b>limited external visibility</b> which reduces potential for creating new partnerships</li> <li>– Difficult access to existing collections as they are mostly physical</li> </ul>
Opportunities	Threats
<ul style="list-style-type: none"> <li>– Potentially, there is a wide range of markets of relevance to the research conducted in Madagascar</li> <li>– Potential for R&amp;D and valorization of GR within existing biotrade value chains is yet to be explored.</li> </ul>	<ul style="list-style-type: none"> <li>– Unstable political climate renders potential investors and R&amp;D partners risk avert and skeptical of a positive change in the near future.</li> </ul>

### 2.3 Summary of findings: Effective participation of IPLCs based on BCPs and community procedures

The national ABS framework is still under development. The current **draft ABS legislation** makes reference to the importance of IPLCs as custodians of natural resources and TK, and gives them the right to PIC when BR/GR are accessed on lands that they own or traditionally occupy. This includes the "communautés de base" in places where resource management transfer to the local level has occurred under the GELOSE law (see below). The draft law also includes the right to PIC and BS of holders of aTK. Finally, the law makes reference to intellectual property rights of IPLCs over their TK, although the exact nature of those rights remains to be defined.

The **customary structure** of Fokolonona is recognized in the constitution and several sectoral laws and policies. However according to some interviewees, this is not well put in practice. At the local level however, customary authorities and rules seem to still be considered very legitimate. The

<sup>4</sup> <http://www.gbif.org/event/79209>



**GELOSE policy** of resource management transfer to the local level gives the “Communautés Locales de Base” (local associations created to this effect) the right to manage and use resources based on a renewable contract with the government. These contracts, and the attached local rules (Dina) could potentially be an interesting base for developing **community protocols**. However there are certain weaknesses in this system, as it is not a real transfer of property rights, the contracts are temporary, and the local associations do not always represent the entire community.

There is **no legislation for TK protection**, and the TK holders consider this a main obstacle to TK valorization. There are two **draft arrêtés** in circulation by the **Ministère de la Santé**, which include some provisions on TK protection, and on ABS. It will be imperative to harmonize these laws with the ABS law under development (see questionnaire for details).

**TK documentation**, as in almost every other country, is not being conducted in a centralized and harmonized fashion yet. Several research institutions have information available, and SAGE conducted regional inventories, but there has not been any follow up. The Service de la Pharmacopée in the Ministère de la Santé has recently begun to systematize the information available in their library in a database.

Some **civil society networks and representations of TK holders** have been involved in the national ABS discussions, including the Alliance Voary Gasy, the Association Nationale des Tradipraticiens de Madagascar (ANTM), and recently Tafo Mihaavo, the network of “Communautés Locales de Base”. SAGE has also conducted **awareness raising and consultations** at the regional level under the UNEP/GEF project. However further awareness-raising and engagement with the constituencies of these networks would be necessary. Also, at the time of the visit there were discussions to go back to a “**comité APA restreint**” to make the work more efficient, and it would be imperative to find a way for these networks to remain engaged in the process.

There are **no formal ABS agreements** yet, the only experiences being the contracts with ICBG. Local communities benefited from these projects through local development projects, but were not in the real sense partners in an ABS agreement. TK was officially not used in these projects. A number of **NGOs support local communities with valorization projects** of natural resources, however so far mostly for local needs and the national market.

An interesting basis is the **partnership between traditional healers (through ANTM), CNARP and the Ministère de la Santé**. Beyond activities such as quality control and capacity building for traditional healers, this partnership has led to some research on TK, which could be further explored. There is also a national committee in charge of issuing licenses for the selling of traditional medicinal products.

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>– There is <b>significant TK associated</b> with the biodiversity of Madagascar. This TK has better chances than in other countries to be <b>unique</b>, considering the high level of endemism and the specificities of Malagasy culture</li> <li>– The <b>draft ABS law</b> recognizes the important role of IPLCs as custodians of biodiversity, and proposes to involve them in PIC processes for the access to GR. It also stresses the importance of TK protection, including IPRs</li> <li>– SAGE has conducted a series of <b>awareness raising</b> activities in the regions</li> <li>– The main <b>civil society networks</b> seem to be</li> </ul>	<ul style="list-style-type: none"> <li>– Absence of a <b>legal framework for TK protection</b></li> <li>– Absence of formal and transparent <b>agreements between researchers and TK holders</b></li> <li>– A certain <b>lack of trust</b> between TK holders / ILCs and the research community</li> <li>– The <b>specifics on TK protection in the draft ABS law</b> are still vague</li> <li>– Need for <b>further awareness raising</b>, including in the constituencies of the civil society networks and with local organizations.</li> </ul>

represented in the ABS process, some of them very recently however.	
Opportunities	Threats
<ul style="list-style-type: none"> <li>– The <b>partnerships between traditional healers, the Ministère de la Santé (Service de Pharmacopée) and CNARP</b> has built trust and led to some research activities which could be built on</li> <li>– There are a number of <b>value chains involving local communities</b>, which could become ABS value chains where R&amp;D is involved</li> <li>– The <b>GELOSE management transfer policy</b> could potentially serve as a basis for community protocols or similar documents.</li> </ul>	<ul style="list-style-type: none"> <li>– The <b>details of TK protection and ILC involvement in the draft ABS law</b> remain vague in some instances; it is important that these aspects are <b>dealt with in subsequent drafts without losing their strength</b></li> <li>– The <b>GELOSE policy</b> is not always implemented in a way that includes the entire community and / or its traditional leadership; the transfer is not a complete transfer of resource rights; and it is temporary. This could lead to unclear property rights situations and conflict.</li> </ul>

### 3. Final observations/ conclusions and way forward

Despite the absence of a legal and regulatory framework in Madagascar there has been numerous bio prospecting activities in Madagascar involving various resources. The NFP informed us that she is still receiving frequent requests from foreign companies for access to some of the country's genetic resources, hence the urgency of adopting interim measures to ensure that these activities are regulated within this interim framework. There is thus a great potential in terms of ABS in Madagascar and the following provides some areas both from the political and technical standpoints where the Initiative ( and its partner Natural justice on IPLCs related issues) could provide support:

#### Political level:

- Provide technical support and backstopping in relation to the development of an interim legislation and regulatory framework
- Provide advice and guidance to the 'comite restraint' to allow it to carry its duties effectively
- Provide advice in relation to the development of a valorization strategy for GR and TK
- Provide guidance in the establishment and functioning of a National Competent authority

#### Technical level

- Provide technical backstopping to help the NFPs tandem in adequately with the numerous requests for access that are addressed to them.
- Formalization of lessons learned through R&D project on GR and aTK for ABS and valorization aspects
- Train relevant officials across the Ministries on user and provider challenges in doing R&D
- Build capacity on legal and IPR matters in relation to pursuing public and private agreements
- Improve public and private actors's capacity to understand market needs and to take strategic positions
  - Provide training and tools on research trends in key sectors and users R&D needs and requirements
  - Clarify the ability of leading R&D actors to meet users' R&D requirements and challenges in selected sectors
  - Engage a dialogue with companies present in user markets, sourcing from Madagascar, to identify research needs and potential linkages with Malagasy research actors
- Technical support to and/or facilitation of discussions on the creation of a national GR and aTK documentation system
- Technical input on how to develop a system for PIC and MAT with IPLCs; including the

discussion if, and how, the GELOSE system can play a role

- Punctual support for pilot BCP processes
- Punctual support for pilot value chains involving aTK and/or IPLCs

## Country Assessment Report: South Africa

### 1. General background information

Team members: Suhel al-Janabi, Pierre du Plessis, Leslie Jensen, Olivier Rukundo

Date of the country Assessment: 24-26 August 2015

### 2. Synthesis of information gathered through the interviews

#### 2.1 Summary of findings: ABS Frameworks

##### General legislative and regulatory framework

South Africa has promulgated the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEMBA) as a framework legislation to regulate ABS issues. This legislation was built on the basis of the White Paper on the Conservation and Sustainable Use of South Africa's Biological Diversity, 1997, the Convention on Biological Diversity and the Bonn Guidelines on ABS. The NEMBA objectives are to provide for:

- (i) the management and conservation of biological diversity within the Republic;
- (ii) the use of indigenous biological resources in a sustainable manner;
- (iii) the fair and equitable sharing among stakeholders of benefits arising from bioprospecting involving indigenous biological resources; and to give effect to ratified international agreements relating to biodiversity which are binding on the Republic.

ABS issues in the NEMBA are being implemented through the Bioprospecting, Access and Benefit Sharing (BABS) Amendment Regulations. These regulations covers the following issues:

- The notification process for the discovery phase of bioprospecting involving any indigenous genetic and biological resources; (b)
- A permitting system is required for bioprospecting and biotrade activities involving any indigenous genetic and biological resources or export from the Republic of any indigenous genetic and biological resources for the purposes of bioprospecting, biotrade or any other kind of research;
- Form and content of and requirements and criteria for benefit sharing and material transfer agreements; and
- The administration process of the Bioprospecting Trust Fund.

##### Bio prospecting and permitting framework

In South Africa, the act and regulations provide provides for two types of bioprospecting phases which respectively entail different permitting requirements for specific activities.

*Discovery phase:* At this stage, the researchers attempt to find out if an indigenous biological resource has any potential to be further developed into a commercial product

*Commercialization phase:* During this stage, the commercialization

Potential of the project has already been established on the properties of the indigenous biological resource and its associated traditional knowledge

##### Identifying whether a permit is required:

Activity	Type of Permit	Issuing Authority
Research other than bioprospecting conducted in South Africa	No bioprospecting permit required but may require a collection and/or research permit from the relevant authority	Relevant province or government agency
Activity	Type of Permit	Issuing Authority

Bioprospecting in discovery phase	No permit required. Notification required	Notify the Minister using prescribed form
Bioprospecting in commercialization phase	Bioprospecting permit	Minister
Export of research other than bioprospecting	Export permit	MEC
Export for bioprospecting in discovery phase	Integrated bio prospecting and export permit	Minister
Export for bioprospecting in commercial phase	Integrated bio prospecting and export permit	Minister

South Africa plans to revisit and possibly amend the ABS provisions in the National Environmental Management further to experiences gained on the current system, international benchmarking and extensive stakeholder consultations over 2016 /2017.

Other key priorities in this areas are;

- Finalize the gap analysis (analysis of current legislative/ regulatory frameworks vs specific obligations under the Nagoya Protocol, specifically with respect to monitoring / compliance)
- The existing permit application forms provided in the BABS Amendment need to be simplified and streamlined
- Developing explanatory notes on the different section of the permit application forms
- Revisiting NEMBA / BABS regulation in SA with respect to addressing indigenous biological resources
- Strengthening the Benefit Sharing Agreements templates provided in the BABS amendment regulations through the development of model contractual clauses for the different sectors
- Organize training for the Bioprospecting Advisory Committee, the National Competent Authority, Potential Checkpoints, and Compliance and Enforcement

## 2.2 Summary of findings: ABS Agreements- valorisation

South Africa is actively engaged in bioprospecting activities which involve the exploration of biodiversity for commercially valuable genetic resources and biochemicals. This is largely due to the countries rich and unique biodiversity and a well-developed research and institutional capacity, which provides an extremely favorable environment for bioprospecting, as well as other approaches based on trading and using biodiversity for commercial gain..

Despite this relatively high level of ABS-related activity only a few ABS agreements have been concluded so far and researchers are complaining that they cannot proceed to commercialization, even when all other elements are in place, because the ABS permitting timeline is too long.

The Biodiversity Economy Strategy adopted by cabinet in August and formally launched in November is a key document. Implementation of the strategy will require both human and technical resources. The BES is very broad and the South African government is working towards developing precise indicators and milestones of how the Strategy can support the effective implementation of the Nagoya Protocol in South Africa (particularly in relation to promoting the conclusion of ABS agreements and partnerships). The strategy is meant to support the development of value chains for natural ingredients, promote quality and certification standards and facilitate public-private partnership. It is likely that implementation of the Strategy will include financial support of several tens of millions of Euro from the SA government, subject to viable business plans. Such investment will have economic transformation (broad-based black economic empowerment) as an important secondary objective.

With its large and relatively wealthy internal market, a strong manufacturing base and vibrant export sector, SA is probably better placed than any other African country to derive significant economic

benefits from successful ABS implementation.

South Africa is to be considered as a provider and user of genetic resources – of domestic origin but also of origin of other (neighboring countries), often based on shared biodiversity and s TK. Thus transboundary aspects are key to be considered when looking at the ABS valorization landscape of South Africa.

### 2.3 Summary of findings: Effective participation of IPLCs based on BCPs and community procedures

IPLCs are recognized through the system of customary law. It is regarded as a valid source of SA long in so far as it does not conflict with our entrenched human rights. The constitution specifies cultural, religious and linguistic communities who may not be denied to enjoy their culture, practice their religion and language; as well as form such associations. (Sections 30 & 31). Chapter 12 of the Constitution gives recognition of customary communities' traditional leaders and their institutions through certain rights to self-governance. The Act and regulations also have relevant provisions on ILCs and aTK

The following are some of key priority activities that SA wants to undertake under this component

- Support ILCs to develop viable BCPs. In this regard, the the SA government is working towards piloting one Biocultural Community Protocol.
- Training and awareness raising for ILCs on the negotiations of Benefit Sharing Agreements
- Develop an operational manual on how to negotiate Benefit Sharing Agreement and the roles and responsibilities of the relevant actors
- Organize training on the provisions of the Nagoya Protocol on ABS, NEMBA and BABS Regulations
- Translation of awareness raising materials into all official languages

### 3. Final observations/ conclusions and way forward

Although, there is a general ABS framework and regulations in place, South Africa needs to revise, review this legislative/ regulatory framework to be in line with the new requirements under the Nagoya Protocol on ABS. Furthermore, despite the numerous ABS related activities in the country, SA needs support, in the context of the implementation of the Biodiversity Economy, to create the enabling environment for promoting functional value chain development and the conclusion of ABS agreements.

The following provides a summary of some of the strength/ opportunities as well as weaknesses and threats identified during the country assessment mission:

Strengths/Opportunities	Weaknesses/Threats
<ul style="list-style-type: none"><li>– Relatively high degree of political and technical coordination between departments (e.g. DEA and DST).</li><li>– Existing ABS legislative and regulatory framework is quite robust.</li><li>– Well defined bio economy strategy - good basis for valorization.</li><li>– Established dialogue with stakeholders and NGOs</li><li>– Fine basic and applied research in international networks.</li><li>– The consideration of IP in ABS and valorization, experiences gained.</li></ul>	<ul style="list-style-type: none"><li>– Permitting system is slow / too bureaucratic and takes too long to get the necessary permits to undertake bioprospection.</li><li>– The existing permit application forms provided in the BABS Amendment Regulations requires to be simplified.</li><li>– Existing ABS legislative and regulatory framework does not provide for compliance provisions as required by the Nagoya Protocol.</li><li>– Coordination among the relevant agencies DEA, DST, DSTI and agriculture can be improved.</li></ul>



<ul style="list-style-type: none"> <li>– CSIR as innovation hub linked to research, private sector, agricultural community schemes.</li> <li>– Existing inventories and idea to create a compound library to support bioprospection.</li> <li>– aTK as a valorisation asset - the National Recordal System.</li> </ul>	
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During the country diagnostic there was a clear consensus that great synergies are possible between the imperative in this phase of the ABS CDI to provide “proof of principle” that ABS can protect biodiversity while alleviating poverty, and the desire of DEA to get implementation of the BES off to a good start. It was therefore agreed that the Initiative would support SA to identify a few (2-5) value chains at various stages of ABS compliance and work with SA towards making them fully compliant and functional. Lessons drawn from this exercise would then be fed into the process of amending NEMBA and related regulations. Upgrading these value chains would also make a concrete contribution towards delivering in the context of the objectives and milestones set out in the BES. The pilot value chains could be chosen on the basis of gaps and opportunities – where a relatively short intervention could generate useful lessons and have a reasonable chance of also leaving behind a lasting legacy.

As a first step in this process DEA were provided with a decision matrix and asked to shortlist candidate value chains that they would be interested to support. This information will then be reality checked by the Initiative, who would propose a package of measures. Unfortunately, the shortlist has not been received yet.

The following is a summary of the identified priority activities where the Initiative’s intervention would be required both at the political and technical levels.

#### Political Level

- Backstopping: revision of the legislative and regulatory framework to bring the existing legislation and regulations in line with the requirements under the Nagoya Protocol (revision of both NEMBA Act and BABS Regulations)
- Provide strategic advice on how to enhance coordination among the relevant institutions (DEA, DST, DSTI and agriculture)

#### Technical Level

- Implementing an electronic permitting system - feasibility study and business plan required
- Development and amendment of CEPA tools (financial support and getting aligned with the new regulations)
- Development of guidelines on how to deal with transboundary GR and TK ( very little has been done in SA in this regard)
- Resource assessments of some of the key resources targeted by bioprospecting
- Establishment of forums for top-priority resources ( e.g. transboundary resources ( Baobab, Marula, Hoodia ect.)
- Development of bio-economy catalogues
- Training of ILCs in the negotiation of MATs

The activities related to review of the legislative and regulatory framework in SA to bring it in line with the requirements set out under the NP will be carried out with the financial support of UNDP under the UNDP-GEF Global ABS project. Nonetheless, during the country assessment, it was determined that the Initiative could provide technical support and backstopping in the implementation the various activities listed above. Furthermore, it is worth noting that South Africa will also receive support under GEF 6 in the context of a 7.5 million \$ project which will focus on Development of Value Chains for Products derived from Genetic Resources in Compliance with the Nagoya Protocol on Access and Benefit Sharing and the National Biodiversity Economy Strategy

## Country Assessment Report: Uganda

### 1. General background information

Team members: Hartmut Meyer, Peter Munyi, Arthur Stevens

Date of the country Assessment: 27-31 July 2015

### 2. Synthesis of information gathered through the interviews

#### 2.1 Summary of findings: ABS Frameworks

Uganda has signed and ratified all the relevant international Conventions and Protocols on ABS. It has also put in place national enabling policies and legislation, including ABS Regulations and accompanying guidelines.

At the institutional level, there is a coordinated and collaborative regulatory environment. This is enabled through the 2005 ABS Regulations which recognize UNCST as the competent national authority with authority to issue research and access permits. The research and access permitting systems is coordinated and seamless. Further a 2015 MoU among the core institutions NEMA, UNCST and NARO complement the ABS Regulations, as it details the working relationship between these three institutions in light of the ABS framework not being Nagoya Protocol compliant. UNCST has automated some of the procedures in the application and granting of research and access permits. However, the other institutions involved in the access permitting process have not automated their part of the procedure.

A number of gaps have been identified in the ABS framework. These include:

- The ABS framework is not compliant with the Nagoya Protocol. It does not make provision for example, import of genetic resources nor are there monitoring systems built into the framework. Enforcement is also weak.
- Protection of traditional knowledge associated with genetic resources should be strengthened.
- While it is provided that ex-situ collections outside Uganda fall within the scope of the law, there are no clear provisions on the process of to access these materials.

#### 2.2 Summary of findings: ABS Agreements- valorisation

##### Clear and well defined ABS framework

- The ABS framework established in 2005 is well defined, clearly structured and has very clear definite procedures.
- The UNSTC has a clear understanding of its role, is well advanced in making aspects clearer including aiming to establish an on-line application procedure.

##### Opportunities for creating ABS-compliant value chains

- Despite there being substantial opportunities for natural products valorisation since the 2005 ABS Regulations and the subsequent 2007 ABS Guidelines there has been only one effective ABS agreement signed between Government and the private sector.
- This ABS agreement took 2 years to negotiate, is subject to frequent multiple government department inspections and was made available for a 5 year term concession only.
- The agreement was concluded with the relevant local government offices carrying out the benefit sharing arrangements. This proved to be unsatisfactory due to government procedures resulting in a renegotiation with the local Forestry Department as being more appropriate. This has subsequently proved to be successful.

- There is a strong need therefore to bring the relevant potential ABS participants together to capitalise on Ugandan natural resources, academic research, local, regional and international industry, local, regional and national government entities to enable greater awareness of the opportunities available.

## **2.3 Summary of findings: Effective participation of IPLCs based on BCPs and community procedures**

### Strong and useful legal system

- IPLCs, their GR and aTK are fully covered by the ABS framework.
- Procedures for granting PIC and negotiating MAT are established in principle by the 2007 ABS Guidelines.
- Land and resource rights of IPLCs are established in the context of the customary land tenure system.
- IPLCs seem to receive more recognition in the environmental law and policy system than 10-20 years ago.
- Benefit sharing systems between the authorities and local communities for entry fees in PAs exist.

### No ABS experiences on the ground

- IPLCs were not involved in any ABS case (there are no R&D-related ABS agreement anyway).
- Awareness of the ABS process at local level hardly exists.
- No BCPs or other community procedures exist apart from those community-related procedures defined in various laws and regulations.

### Participation of IPLCs in ABS cases is possible

- Willingness at the side of the governmental authorities to engage with IPLCs.
- Some IPLCs became aware of the business potential related to *Prunus africana* bark and expressed their wish to participate in the value chain.
- Some IPLCs received training in negotiating access to PAs for small scale logging, hunting, and NTFP collection.
- The ABS cases could be built upon a clear and useful legal and procedural system.

## **3. Final observations/ conclusions and way forward**

### Strengths

- Strong and useful legal system with regard to ABS issues
- One-stop-shop system for research and ABS permits with UNCST as CNA and several state agencies as lead agencies
- Highly cooperative culture amongst the authorities and institutions, also between environment (NEMA) and agriculture (NARO)
- Permissive climate for businesses

### Weaknesses

- Lack of enforcement of the ABS system with commercial users
- Unclear situation in cases of research co-operations with foreign institutions fearing illegal export of genetic resources

- No governmental promotion system for business incubation and science-business relationships
- No formal cooperation between IPLCs who mostly live in remote places far away from capital

#### Possible interventions at the political level

- Gap analysis to identify areas of the ABS framework that are not Nagoya Protocol compliant
- Review of the legal and administrative system
- Establishing discussion fora between GR providers from Uganda and GR users in the EU, with special focus on *Prunus africana*

#### Possible interventions at technical level

- Supporting the creation of an IT-based application and monitoring system
- Supporting the establishment of ABS-compliant value chains with IPLC involvement, preferentially dealing with *Prunus africana* and traditional medicinal plants with aTK
- Analysis of publications and patents with GR from Uganda, cross check with permit data
- Study on the nature and type of access permits to identify user groups and develop targeted capacity development measures
- Existing material transfer agreements and CITES permits should be complemented with ABS clauses

## Annex C: Expenditure for the implementation of the ABS Capacity Development Initiative January to March 2015

Expenditures listed in sections '0.1' and '0.2' include the secretariat's staff time for the implementation of activities which are listed in sections 1 to 4 of the table of expenditures, i.e. in these budget lines all activity related costs for staff time of the Secretariat are "deducted".

Expenditure line '0.4' refers to travel costs of Secretariat staff which is not related to the activities listed in sections 1 to 4 of the table of expenditures; this line covers travel costs for e.g. team and coordination meetings, donor meetings and international events listed in chapter 5 of the workplan.

	Overall expenditure (€)	Expenditure (€) ABS Initiative					
		BMZ	OIF	Norway	Denmark	EU	France
<b>0 Secretariat / Management</b>							
<b>0.1 Staff</b>							
Manager (80%)	20.346	20.346					
Project Officers (2 x 100%, 2 x 80%)	55.484	4.192		51.031			261
Travel and Workshop Manager (2 x 100%)	26.296						26.296
Finance administrator (100%)	14.624	14.624					
<b>Sub-total: Staff</b>	<b>116.751</b>	<b>39.162</b>	<b>0</b>	<b>51.031</b>	<b>0</b>	<b>0</b>	<b>26.557</b>
<b>0.2 Consultants</b>							
Co-Management by GeoMedia GmbH	9.719			-1.250	5.804	-9.740	14.904
Evaluation	0						
<b>Sub-total: Consultants</b>	<b>9.719</b>	<b>0</b>	<b>0</b>	<b>-1.250</b>	<b>5.804</b>	<b>-9.740</b>	<b>14.904</b>
<b>0.3 Running costs:</b>							
Office rent, communication,...(month)	11.996	2.323		6.321	96	89	3.166
External audits	8.056				8.056		
<b>Sub-total: Running costs</b>	<b>20.052</b>	<b>2.323</b>	<b>0</b>	<b>6.321</b>	<b>8.152</b>	<b>89</b>	<b>3.166</b>
<b>0.4 Travel secretariat:</b>							
Travel secretariat staff	1.552			518	6	383	646
<b>Sub-total: Travel Secretariat</b>	<b>1.552</b>	<b>0</b>	<b>0</b>	<b>518</b>	<b>6</b>	<b>383</b>	<b>646</b>
<b>0.5 Procurement:</b>							
Office equipment (server, computer...)	6.979			415	3.280	-47	3.330
<b>Sub-total: Procurement</b>	<b>6.979</b>	<b>0</b>	<b>0</b>	<b>415</b>	<b>3.280</b>	<b>-47</b>	<b>3.330</b>
<b>0 Sub total: Secretariat / Management</b>	<b>155.053</b>	<b>41.485</b>	<b>0</b>	<b>57.036</b>	<b>17.243</b>	<b>-9.315</b>	<b>48.604</b>
- share of Africa	124.042	33.188	0	45.629	13.794	-7.452	38.883
- share of Caribbean (funded by BMZ, IFDD and EU)	15.505	4.148	0	5.704	1.724	-931	4.860
- share of Pacific (funded by BMZ, IFDD and EU)	15.505	4.148	0	5.704	1.724	-931	4.860
<b>1 AFRICA</b>							
<b>1.1 Support to ratification</b>							
Support for national consultation processes	0			0			
<b>Sub-total: Support to ratification</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>1.2 National / regional implementation</b>							
Consultants: General support for national implementation	6.319			4.485			1.834
Benin: ongoing national consultation process and pilots for implementation	26.247					1.252	24.995
Kenya: revision of Kenyan ABS law s and regulations	2.542						2.542
Malawi: ABS agreements and support development of regulatory framework	0						
Workshop on ABS Implementation for ILCs	15.249		3.013	11.749			488
Natural Justice: African BCP Initiative	64			64			
IDLO: Legal preparedness for Aichi Target 16	16.812			-60.843	77.655		
FNi: Country studies on ABS experiences in Australia and India	12.500			12.500			
Natural Justice: BCPs in Francophone West Africa	21.000						21.000
Senegal	0						
Mozambique	0						
<b>Sub-total: National / regional implementation</b>	<b>100.733</b>	<b>0</b>	<b>3.013</b>	<b>-32.046</b>	<b>77.655</b>	<b>1.252</b>	<b>50.860</b>
<b>1.3 Value chain establishment</b>							
Training on IPR and preparatory meeting for ILC prior to COP 11 (2012)							
International Forum Africa and Beauty, Burkina Faso							
ABS and Business Dialogue Forum ("Copenhagen 4")	52.279			1.996	28.465	-7.411	29.230
Developing business and research partnerships (e.g. in MAD, NAM)	9.994			-5.615	5.615	-3.407	13.401
Understanding the business potentials of GR and aTK: various studies	31.770			-2.354	4.949	-1.746	30.922
FNi: Legal study and practical handbook on ABS contracts	12.500			12.500			
UEBT: Engaging business in ethical sourcing	72					-170	242
PhytoTrade Africa: ABS in Southern Africa	0			-2.000	2.000		
Tools for Negotiating and Concluding ABS Agreements							
Cameroon: national ABS regulations and valorisation of NTFPs	4.722			-646	779	-6.815	11.404
Ethiopia: ABS contract training for national providers of GR and aTK							
* Morocco: development of ABS measures and agreements	466					-1.107	1.574
* Madagascar: national ABS regulations and valorisation of NTFPs	5.127					-10.912	16.039
<b>Sub-total: Value chain establishment</b>	<b>116.930</b>	<b>0</b>	<b>0</b>	<b>3.880</b>	<b>41.808</b>	<b>-31.569</b>	<b>102.811</b>

		Overall expenditure (€)	Expenditure (€) ABS Initiative					
			BMZ	OIF	Norway	Denmark	EU	France
<b>1.4</b>	<b>Amplifying ABS processes</b>							
	Integrating ABS in the country programming of GEF-SGP	4.022			3.987	0	-85	121
	Integrating ABS in bilateral development cooperation programmes	179					-426	605
	<b>Sub-total: Amplifying ABS processes</b>	<b>4.202</b>	<b>0</b>	<b>0</b>	<b>3.987</b>	<b>0</b>	<b>-511</b>	<b>726</b>
<b>1.5</b>	<b>(Sub-)Regional capacity development and coordination for relevant international processes</b>							
	Consultants: Advice to African Group, reporting, translations etc.	0			-778	778		
	AUC: Integrating ABS at the (sub-)regional policy level: AU Guidelines	34.603			1.481	7.462		25.660
	AUC: African Coordination Meetings for ICNP 3 and COP 12 (/ MOP 1)	11.598			-1.742	13.318	22	
	COMIFAC: Implementing the Regional ABS Strategy	466					-1.107	1.574
	BIOPAMA: Linking ABS with PA Management							
	Tandem workshop "Coherent National Implementation of the NP and the	625			2.125	-1.500		
	Trainings "Integrating IPRs in the ABS process"	0			-2.248	2.248		
	Trainings "ABS contracts"					0		
	UCT: Basic ABS raining Course – Legal and Technical Skills	63.429			-3.084	4.245	1.021	61.247
	Trainings "Management of Multistakeholder Processes in the ABS Arena"							
	7th Pan-African ABS Workshop incl. RSC Africa Meeting	-1.564				1.784	-3.348	
	8th Pan-African ABS Workshop incl. RSC Africa Meeting	-934			-934			
	9th Pan-African ABS Workshop incl. RSC Africa Meeting	214.650			5.717	198.015	1.947	8.972
	Harmonizing national and regional approaches on ABS, IPR and aTK	5.009			-2.000	2.112	-1.533	6.430
	Regional TK Workshop for IRLCs (2014)							
	<b>Sub-total: (Sub-)Regional capacity development and coordination for relevant international processes</b>	<b>327.881</b>	<b>0</b>	<b>0</b>	<b>-1.463</b>	<b>228.461</b>	<b>-3.000</b>	<b>103.883</b>
	<b>Sub total: AFRICA incl. costs of the secretariat</b>	<b>673.788</b>	<b>33.188</b>	<b>3.013</b>	<b>19.986</b>	<b>361.719</b>	<b>-41.280</b>	<b>297.163</b>
<b>2.2</b>	<b>National / regional implementation + value chain establishment</b>							
	Dominican Republic							
	Bahamas	0						
	Guyana, Justice Institute	0						
<b>2.3</b>	<b>Regional capacity development, training and coordination for relevant international processes</b>							
	2nd Caribbean ABS Workshop, 11/2013, Jamaica	3.655					3.655	
	3rd Caribbean ABS Workshop, 11/2014, St. Lucia	11.967			1.971	555	9.442	
<b>2</b>	<b>Budget Caribbean incl. costs of the secretariat</b>	<b>31.128</b>	<b>4.148</b>	<b>0</b>	<b>7.674</b>	<b>2.279</b>	<b>12.166</b>	<b>4.860</b>
<b>3.1</b>	<b>Support to ratification</b>							
	Awareness raising at relevant international (e.g. UN SIDS Conference) and regional meetings	0						
<b>3.2</b>	<b>National / regional implementation + value chain establishment</b>							
	Support to SPREP (intern position)	0						
	Initial support to selected countries	13.693					13.693	
<b>3.3</b>	<b>(Sub-)Regional capacity development and coordination for relevant international processes</b>							
	4th Pacific ABS Workshop, 11/2013, Suva	0						
	ABS Contract Training, 08/2014, Nadi	0						
	5th Pacific ABS Workshop, 11/2014, Sydney	-2.657			-2.657			
	National Training, Dom.Rep.	3.357			3.357			
<b>3</b>	<b>Budget Pacific incl. costs of the secretariat</b>	<b>29.898</b>	<b>4.148</b>	<b>0</b>	<b>6.403</b>	<b>1.724</b>	<b>12.762</b>	<b>4.860</b>
<b>4</b>	<b>Supra-regional (AFRICA, CARIBBEAN, PACIFIC)</b>							
<b>4.1</b>	<b>South-South Exchange on Monitoring and Compliance Obligations</b>							
	South-South Exchange on Monitoring and Compliance Obligations	0			-13.890	13.890		
<b>4.2</b>	<b>CEPA and knowledge management by the ABS Initiative</b>							
	CEPA and knowledge management by the ABS Initiative	22.322			2.125	3.615	-681	17.264
	<b>Sub total: Supra-regional (AFRICA, CARIBBEAN, PACIFIC)</b>	<b>22.322</b>	<b>0</b>	<b>0</b>	<b>-11.765</b>	<b>17.505</b>	<b>-681</b>	<b>17.264</b>
	<b>Projekt costs</b>	<b>757.136</b>	<b>41.485</b>	<b>3.013</b>	<b>22.298</b>	<b>383.227</b>	<b>-17.034</b>	<b>324.147</b>
	Overhead costs (co- and parallel funding donor *)	74.849		432	1.561	48.129	-1.192	25.920
	Overhead costs (BMZ)	9.221	6.223		4.778	405	-2.185	
	<b>Total overhead costs</b>	<b>84.070</b>	<b>6.223</b>	<b>432</b>	<b>6.339</b>	<b>48.533</b>	<b>-3.377</b>	<b>25.920</b>
	<b>Total project costs</b>	<b>841.206</b>	<b>47.707</b>	<b>3.444</b>	<b>28.637</b>	<b>431.761</b>	<b>-20.411</b>	<b>350.068</b>



## Annex D: Expenditure for the implementation of the ABS Capacity Development Initiative April to December 2015

Activity No.	Activity	Country	Expenditure by donor						Co-funding
			BMZ	OIF	Norway	Denmark	EU	France	
<b>1</b>	<b>Supporting Partner Countries</b>								
<b>1.0</b>	<b>National Support</b>								
1.0.1	Ongoing processes, roadmap & implement.	Algeria	961				1.279	4.793	25.466
1.0.2	Ongoing processes, roadmap & implement.	Benin	23.334			14.402		79.891	117.627
1.0.3	Ongoing processes, roadmap & implement.	COMIFAC	2.008				23.405		25.413
1.0.6	Ongoing processes, roadmap & implement.	Kenya	6.111			8.012		1.182	15.305
1.0.7	Ongoing processes, roadmap & implement.	Madagascar	5.654				3.546	17.030	26.230
1.0.8	Ongoing processes, roadmap & implement.	Morocco	832					3.561	4.393
1.0.9	Ongoing processes, roadmap & implement.	Namibia	370				1.666	3.614	5.650
1.0.10	Ongoing processes, roadmap & implement.	South Africa	3.449			1.034	451	20.787	25.720
1.0.11	Ongoing processes, roadmap & implement.	Uganda	6.426			1.034		25.427	32.887
1.0.12	Flexible budget for country support		6.219			6.670	12.952	28.834	54.675
<b>1.1</b>	<b>National Institutional and Regulatory ABS Frameworks</b>								
1.1.1	IDLO Legal Training		485						485
<b>1.2</b>	<b>Effective Participation of IPLCs</b>		565						565
1.2.1	Natural Justice: Engaging w ith IPLC		825			78.021			78.846
<b>1.3</b>	<b>Development of ABS Agreements</b>		3.859					13.436	17.295
1.3.1a	Contract Training EN	South Africa							
1.3.1b	Contract Training FR	Morocco							
1.3.2a	UEBT: Support to ABS compl. value chains		4.187			13.621	2.093	57.084	76.985
1.3.2b	PTA: Support to ABS compl. value chains		2.332				504	59.139	61.975
<b>1</b>	<b>Sub-Total</b>		<b>67.617</b>	<b>0</b>	<b>0</b>	<b>122.793</b>	<b>45.896</b>	<b>314.777</b>	<b>551.083</b>
<b>2</b>	<b>Auxiliary Processes</b>								
<b>2.1</b>	<b>Regional Harmonisation and Exchange</b>								
2.1.1	Participation in regional fora		1.584			9.938	78	6.884	18.484
2.1.2	Final WS UNEP/GEF 4	Kenya	1.437					41	1.477
2.1.3	Basic ABS course (UCT)	Zimbabwe	5.875				4.063		9.938
2.1.4	C2C exchange	India	15.728			96.282			112.010
2.1.5	WS ABS implement. for IPLC	Morocco	39						39
2.1.6	9th Pan-African WS	Ethiopia	944				3.333		4.276
2.1.7	AU Coordination Support		1.158				11.049	2.500	14.707
<b>2.2</b>	<b>Interfaces to International Processes</b>								
2.2.1	Participation in international fora		13.996				78	12.925	26.999
2.2.2	WIPO WS on IPR for IPLC EN	Namibia	17.083			32.957	1.783	14.028	65.849
2.2.3	WIPO WS on IPR for IPLC FR	Morocco	211						211
2.2.4	Tandem WS ITPGRFA and NP	Ethiopia	16.366			42.065		4.539	62.969
2.2.5	Integrating ABS in GEF SGP		247			0			247
<b>2.3</b>	<b>Knowledge Generation and Management</b>								
2.3.1	Support by FNI		396					122	518
2.3.2	Support by CISDL		62			10.971			11.033
2.3.3	Equator Initiative: ABS Equator Award		431			431			863
2.3.4	Knowledge management		32.706			9.675	310	1.723	44.413
<b>2.4</b>	<b>Developing HCD Tools</b>		4.536						4.536
2.4.1	Basic ABS course (MNH)	Senegal	123						123
2.4.2	Blended learning tools for ABS	Italy	1.837						1.837
2.4.3	CEPA tools		36.742			7.030	2.326	13.339	59.437
<b>2</b>	<b>Sub-Total</b>		<b>151.500</b>	<b>0</b>	<b>0</b>	<b>209.350</b>	<b>23.018</b>	<b>56.099</b>	<b>439.967</b>
<b>Total Costs - Implementation</b>			<b>219.117</b>	<b>0</b>	<b>0</b>	<b>332.143</b>	<b>68.914</b>	<b>370.877</b>	<b>991.050</b>
<b>3</b>	<b>Steering and Guiding Processes</b>								
<b>3.1</b>	<b>Steering Committee</b>								
3.1.1	Steering Committee		7.950					1.477	9.427
<b>3.2</b>	<b>Project Management</b>								
3.2.0	Secretariat Cost - Management		239.556				23.102	12.553	275.211
3.2.1	Team Meetings	Germany	31.109			40.378		11.567	83.054
<b>3</b>	<b>Sub-Total</b>		<b>278.615</b>	<b>0</b>	<b>0</b>	<b>40.378</b>	<b>23.102</b>	<b>25.597</b>	<b>367.693</b>

Activity No.	Activity	Country	Expenditure by donor							Co-funding
			BMZ	OIF	Norway	Denmark	EU	France	Sum	
4	Caribbean									
4.1	National support		21						21	
4.1.1	Bahamas		3.288						3.288	
4.2	Regional support		4.196						4.196	
4.2.1	Marine Conference Jamaica 11/2015		152						152	
4	Sub-Total		7.657	0	0	0	0	0	7.657	0
5	Pacific									
5.1	National support		277				1.711		1.988	
5.2	Regional support		98						98	
5	Sub-Total		375	0	0	0	1.711	0	2.086	0
Sum			502.215	0	0	372.521	93.727	396.473	1.368.485	142.307
Total overhead costs*			72.863	0	0	39.112	14.059	55.992	182.025	
Project expenditure 04/2015-12/2015			575.077	0	0	411.633	107.786	452.465	1.550.510	
Project expenditure 01/2015-03/2015			47.463	3.444	28.637	431.761	-20.411	350.068	840.962	
Sum project expenditure 2015			622.540	3.444	28.637	843.393	87.374	802.533	2.391.472	

## **Annex E: List of workshops, trainings and conferences organized, (co-)financed and attended by the ABS Initiative**

*Events not organized and financed by the Initiative are listed in italics.*

19.-23.01.15	<i>FAO CGRFA15, Rome, Italy</i>
21.01.15	<i>National key stakeholder dialogue: The road towards domestication and development of effective ABS laws, Naivasha, Kenya</i>
28.-29.01.15	<a href="#"><u>4<sup>th</sup> ABS Business Dialogue, Copenhagen, Denmark – co-organised with the Danish Ministry of Environment and the Danish Industry Confederation, Copenhagen, Denmark</u></a>
03.-05.02.15	<i>National ABS Workshop, Koror, Palau</i>
17.-19.02.15	<i>Side event “ABS and its integration in GEF country portfolios” at the GEF Workshop for CBD and GEF Operational Focal Points in the Southern African Region, Windhoek, Namibia</i>
23.-27.02.15	<a href="#"><u>9<sup>th</sup> Pan-African ABS Workshop, Addis Ababa, Ethiopia</u></a>
01.-06.03.15	<i>AMCEN 15, Cairo, Egypt</i>
04.03.15	<i>“MAT negotiation Echinops”, Magha Bamumbu, Cameroon</i>
06.03.15	<i>Saatgut-Workshop SV NAREN, Bonn, Germany</i>
16.-17.03.15	<i>“Inception workshop for the project to support ratification and implementation of the Nagoya Protocol on Access and Benefit Sharing in COMIFAC countries”, Kigali, Rwanda</i>
16.-20.03.15	<i>SNRD Meeting, Addis Ababa, Ethiopia</i>
18.03.15	<i>“Steering Committee Meeting Global Project on Ratification and Entry into Force of Nagoya Protocol on ABS”, Kigali, Rwanda</i>
25.-26.03.15	<i>GIZ / MEN-REM Workshop: Implementation of the CBD and Nagoya Protocol, Marrakech, Morocco</i>
30.03-01.04.15	<i>WIPO GRTKF Seminar, Geneva, Switzerland</i>
31.03.15	<i>2015 “Workshop for the final MAT Negotiation and validation for the commercialization phase of Echinops giganteus”, Magha-Bamumbu, Cameroon</i>
01.04.15	<i>“Réunion de validation des CCCA Echinops giganteus par le comité national APA et cérémonie de signature desdites CCCA”, Yaoundé, Cameroon</i>
07.-10.04.15	<i>International IOCD Symposium “The Plant Kingdom: Source of Drugs, Nutraceuticals and Cosmetics” organized by International Organization for Chemical Sciences in Development (IOCD) and University Mohammed V, Faculty of Sciences, Marrakech, Morocco</i>
14.-16.04.15	<i>InCosmetics trade fair, Barcelona, Spain</i>
05.-07.05.15	<i>Vitafood Europe, The global nutraceutical event, Geneva, Switzerland</i>
11.05.15	<i>Phytotrade ABS workshop for cosmetic sector, Durban, South Africa</i>
12.-15.05.15	<i>Inception Workshop Darwin Initiative, Cotonou, Benin</i>
13.05.15	<i>Workshop regarding Namibian R&amp;D platform, Windhoek, Namibia</i>
01.-04.06.15	<i>ITPGRFA working group on Multilateral Systems, Brasilia, Brazil</i>
01.-05.06.15	<a href="#"><u>Training Course to build African Capacity in Access and Benefit Sharing, Harare, Zimbabwe – organized by University of Cape Town</u></a>

15.06.15	<i>Final workshop GEF PPG Bahamas Project, Nassau, The Bahamas</i>
22.-26.06.15	<i>A capacity-building workshop for the development of harmonized national ABS frameworks for CBD and NP Focal Points from Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo, Bobo Dioulasso, Burkina Faso</i>
23.-26.06.15	<i>GRPI 2 Synthesis WS Theme 1 "National-level multilateral system policy development", Rome, Italy</i>
24-26.06.15	<i>"Beauty of Sourcing with Respect – Biodiversity for Sustainable Development for Beauty, Health &amp; Food" Conference organized by the Union for Ethical BioTrade (UEBT), Paris, France and accompanying events, see below: 24 June: Company visit to L'Oreal 25 June: UEB Beauty of Sourcing with Respect Conference 26 June: Visit to concept store</i>
14.-17.07.15	<i>Darwin Initiative Project: Kick-off activities, Antananarivo, Madagascar</i>
10.-12.08.15	<i>Implementation of the Access and Benefit sharing Process in the Member Countries of the Central African Forests Commission (COMIFAC) - Strategic Planning Workshop of Project Activities, Douala, Cameroon</i>
13.-15.08.15	<i>Intellectual Property and Access and Benefit Sharing Interface Workshop for the Implementation of the Nagoya Protocol organized by Ministry of Environment and Tourism, Windhoek, Namibia</i>
17.-20.08.15	<a href="#"><u>Practical Workshop on Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions, Windhoek, Namibia, co-organized with WIPO</u></a>
14.-20.09.15	<i>Informal Advisory Committee on ABS CB/CD, Montreal, Canada</i>
15.-16.09.15	<i>National Intellectual Property (IP) Workshop 2015 - "Elaboration of National Intellectual Property Strategy for Namibia" WIPO in collaboration with the MITSD, BIPA and GIZ, Windhoek, Namibia</i>
28.-29.09.15	<i>"Working out ABS – Countdown to implementation of the new EU rules on Access and Benefit Sharing" Conference organized by the International Chamber of Commerce, Paris, France</i>
28.09.-04.10.15	<a href="#"><u>Community to Community Exchange and Capacity Development Workshop for Traditional Knowledge Holders, Bengaluru (Bangalore), India</u></a>
29.09.15	<i>ABS hearing Environmental Committee Bundestag, Berlin, Deutschland</i>
02.10.15	<i>Resumed ITPGRFA WG on MLS, Rome, Italy</i>
03.-04.10.15	<i>African region prep meeting for ITPGRFA GB6, Rome, Italy</i>
05.-06.10.15	<i>Side Event Governing Body ITPGRFA, Rome, Italy</i>
05.-09.10.15	<i>ITPGRFA GB6, Rome, Italy</i>
07.10.15	<i>ABS Workshop Global Nature Fund, Bonn, Deutschland</i>
29.10.15	<i>2015 "Presentation of the ABS Initiative's work to a delegation of Central American Political stakeholders in the ABS arena", Bonn, Germany</i>
02.-05.11.15	<i>"Nineteenth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice", Montreal, Canada</i>
04.-07.11.15	<i>"Ninth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity", Montreal, Canada</i>

- 05.-07.11.15      *2nd Biodiversity Economy Indaba “Biodiversity is good for Business, Business is good for Biodiversity” hosted by the Department of Environmental Affairs, Durban, South Africa*
- 16.-20.11.15      [Embedding Mutually Supportive Implementation of the Plant Treaty and the Nagoya Protocol in the context of broader national policy goals, Addis Ababa, Ethiopia – co-organized with Bioversity International](#)
- 26.-27.10.15      *Inception workshop UNDP-GEF ABS Project, Istanbul, Turkey*
- 23.-24.11.15      *UNCTAD Peer Review Biotrade-ABS Policy Document, Geneva, Switzerland*
- 30.11.-04.12.15      [Capacity Building on the negotiation of MATs for access to genetic resources, to support effective implementation of the Nagoya Protocol, Paramaribo, Suriname](#)
- 03.12.15          *2nd Stakeholder Workshop - Development of a Sector Growth Strategy for the Cosmetic Industry organized by Ministry of Industrialisation, Trade and SME Development, Windhoek, Namibia*
- 09.-10.12.15      *Centella Round Table, Moramanga, Madagascar*
- 11.12.15          *ABS Round Table, Antananarivo, Madagascar*

**Annex F: Letter of Intent between the ABS Initiative and AUC DREA and DHRST**



**COLLABORATION BETWEEN  
THE AFRICAN UNION COMMISSION DEPARTMENTS OF  
HUMAN RESOURCES SCIENCE AND TECHNOLOGY AND  
RURAL ECONOMY AND AGRICULTURE**

**AND**

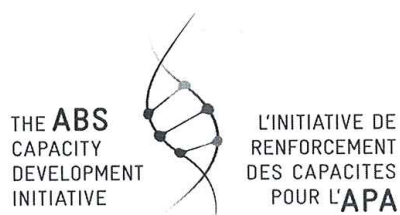
**THE ABS CAPACITY DEVELOPMENT INITIATIVE**

**ON MATTERS OF SUPPORTING THE IMPLEMENTATION OF  
THE NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND  
THE FAIR AND EQUITABLE SHARING OF BENEFITS  
ARISING FROM THEIR UTILIZATION (ABS)**

**LETTER OF INTENT**

**MARCH 25, 2015**

**ADDIS ABABA**





***Collaboration between the African Union Commission Departments of Human Resources Science and Technology and Rural Economy and Agriculture and the ABS Capacity Development Initiative on matters of supporting the implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS)***

The African Union Commission Departments of Rural Economy and Agriculture (DREA) and Human Resources Science and Technology (HRST) having cross cutting mandates to implement programs on biodiversity conservation, sustainable use and equitable sharing of benefits from the utilization of genetic resources have agreed to collaborate with the ABS Capacity Development Initiative (the ABS Initiative) in programs of support to member states on matters of ABS and related issues of biodiversity conservation and sustainable use. The ABS Capacity Development Initiative is a multi-donor programme hosted by the German Federal Ministry for Economic Cooperation and Development and implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. Its overall objective is to contribute – based on partnerships between South and North at a “level playing field” – to poverty reduction, food security, technology transfer, social development including equity and rights, and biodiversity conservation through implementing the Nagoya Protocol on ABS.

In April 2015, the ABS Initiative entered into a new phase of implementation in Africa. Its Programme Document 2015-2020 outlines the core implementation processes such as support to national institutional and regulatory frameworks, mainstreaming into national development policies and programmes, effective participation of local communities based on Biocultural Community Protocols and procedures and development of ABS agreements.

Likewise, the DHRST has developed the African Union Strategic Guidelines for the Coordinated Implementation of the Nagoya Protocol on ABS through effective collaboration with the ABS Initiative. The Guidelines which have been adopted by the 15<sup>th</sup> Session of the African Ministerial Conference on the Environment (AMCEN) in March 2015 called upon AU Member States to cooperate on and coordinate various matters relevant for the implementation of the Nagoya Protocol, including the coordinated development of model clauses for mutually agreed terms and minimum benefit-sharing terms. To facilitate the information exchange the African Union Commission shall establish a database of relevant ABS information and make it available for consultation by African Union Member States and African indigenous peoples and local communities.

With the financial support of the ABS Initiative the DHRST had also undertaken to coordinate and support the negotiations of the African Group of Negotiators (AGN) on Biodiversity at two of the meetings of the Intergovernmental Committee for the Nagoya Protocol before the entry into force of the Protocol and the First Meeting of the Parties of the Protocol (COP-MOP 1) when it entered into force in October 2014. DHRST will continue its coordination support to the AGN on Biodiversity and ABS as well as through the streamlining of ABS in other international or regional instruments relevant to the



***Collaboration between the African Union Commission Departments of Human Resources Science and Technology and Rural Economy and Agriculture and the ABS Capacity Development Initiative on matters of supporting the implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS)***

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### **Cluster 1: Collaboration in the coordinated and harmonized implementation of the AU Guidelines on ABS**

The DREA and DHRST would ensure that the AU Guidelines for the Coordinated implementation of the Nagoya Protocol on ABS would be publicized at all relevant levels within the AU system as well as outside. The AUC will work towards the creation of avenues where Member States cooperate, share information and coordinate their policies on ABS with a view to establishing transparent, fair, equitable and uniform benefit-sharing standards. This information exchange may be facilitated through the establishment of a database of relevant ABS information as well as sensitization and consultation on such information amongst the Member States and African indigenous peoples and local communities. The ABS Initiative would support outreach activities of the AUC with regards to publicising the AU Guidelines including through disseminating the document in print and electronic media to all relevant stakeholders in Africa and beyond. Raising awareness about the roles and responsibilities of the different actors (including the RECs) and ensuring active involvement in the coordination process spearheaded by the Commission could be supported under this activity cluster.

### **Cluster 2: Support to AU Member States in the Negotiations related to ABS**

The DREA and DHRST would collaborate to support the African Group of Negotiators on Biodiversity (support to the processes under the Convention on Biological Diversity and its Protocols; including the Nagoya Protocol on ABS) as per the decision of the relevant AU Policy Organs on the same<sup>2</sup>. Based on the request from the relevant AUC department and subject to the decision of the African Steering Committee of the ABS Initiative financial and technical support could be rendered by the ABS Initiative to the African coordination meetings for the COP-MOP negotiations thereby ensuring the preparedness of African negotiators. The support rendered by the ABS Initiative would fill the gap and ensure continuity pending other support mechanisms such as those envisaged in Decision 15/3 of the 15<sup>th</sup> Session of AMCEN.

### **Cluster 3: Support to National Implementation and its up scaling**

Relevant information on country experiences and best practices in implementing ABS agreements as well as implementation of the ABS measures of the Nagoya Protocol could be showcased through the support of the ABS Initiative. The two Departments with the support of the Initiative will communicate best practices in implementing ABS at all relevant levels within the AU and to cross cutting programs including but not limited to rural economy, trade, biotechnology, biosafety, intellectual property, indigenous knowledge etc. The two Departments will also work with the support of the Initiative to hold training workshops on ratification and/or implementation of the Nagoya Protocol.

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<sup>2</sup> Assembly/AU/dec.353(XVI) and AMCEN Decision 14/8



Ensuring better involvement of African universities (including the relevant Pan African University institutes) in both, capacity development to build up national ABS systems in Africa and to work towards greater role of African research institutions in R&D related to genetic resources could, as appropriate, be taken up in this collaboration.

#### **Cluster 4: Genetic Resources Valorisation and Mainstreaming into National Development Policies and Plans**

The valorisation of biodiversity and genetic resources as stipulated in the AU Guidelines on ABS as well as other relevant documents should be given due concern as it greatly contributes to the benefit sharing aspect of ABS. The AU Agenda 2063 amongst other envisages a continental biodiversity strategy and a framework on natural resource accounting. The AUC medium term plan (2014-2017), which is fully integrated into Agenda 2063, envisages:

- developing a continental strategy on biodiversity, including ABS
- supporting Member States to improve management of biodiversity, including ABS
- developing a continental framework on natural resource accounting; and
- strengthening capacity of national planners to integrate biodiversity, most notably natural resources accounting (NRA) in national planning processes.

To this end, in the short run national experiences on the valorisation of genetic resources and biodiversity as well as integration into national development policies and plans may be sought and showcased. Hence this would be a key cluster of collaboration between the parties.

#### **Cluster 5: South-South Exchange**

Linking up the African region with the Caribbean and Pacific regions in terms of exchange of experiences in implementation; best practices and current approaches to implement the Nagoya Protocol on ABS is important to learn the relevant lessons. Developing countries, including small island developing states (SIDS) and regions with similar ecosystems and genetic diversity may share findings and collaborate in matters of ABS. This may be facilitated by the Initiative as its support extends to the ACP countries whilst the DREA MEAs program as part of an EU funded ACP program may also be leveraged to support the involvement of Member States in South-South exchange forums on the implementation of the Nagoya Protocol on ABS.

#### **Cluster 6: Sustainability Mechanism: Internal and External Mobilization of Funds**

The support to AU member States in matters of biodiversity has been called to be included amongst the priority areas of the AU<sup>3</sup>. Coordination and mutually supportive

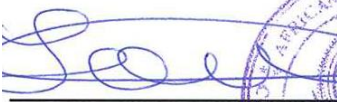


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<sup>3</sup> ibid

implementation of the Nagoya Protocol with other MEAs may only be impactful if it has a sustainability mechanism in place. This calls for a regular budget within the program areas of the AUC ideally supported by the Member States (internally). However international available financing mechanisms may also be explored to support the activities of the AU whereupon the Initiative, as an older, key player in the international level may play a proactive role in supporting the identification of these mechanisms.

### **Duration**

The collaboration will be effective starting from the entry into phase of the new program of work of the Initiative in April 2015 till a period of five (5) years. Based on further discussions further agreements on further program areas could be made in the future.

 <b>Dr. Mahama Ouedraogo</b> Ag. Director, DHRST	 <b>Dr. Janet Edeme</b> Ag. Director, DREA	 <b>Dr. Andreas Drews</b> Manager, ABS Initiative
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