

**Access and
Benefit
Sharing**

The ABS Capacity Development Initiative

The ABS Capacity Development Initiative

- An Overview -

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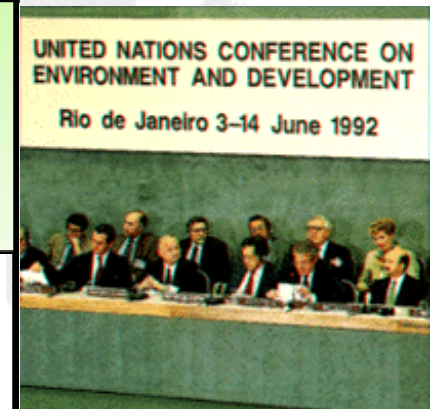
7 October 2011, Tanoa International Hotel, Nadi, Fiji

Access and Benefit Sharing

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Convention on Biological Diversity, Article 1

1) Conservation of biological diversity	2) Sustainable use of its components	3) Fair and equitable sharing of benefits from the utilization of genetic resources
		via
Appropriate access to genetic resources	Appropriate transfer of technology and know how	Appropriate funding: <ul style="list-style-type: none">• Up-front payments• Mile stone payments• Licence fees / royalties

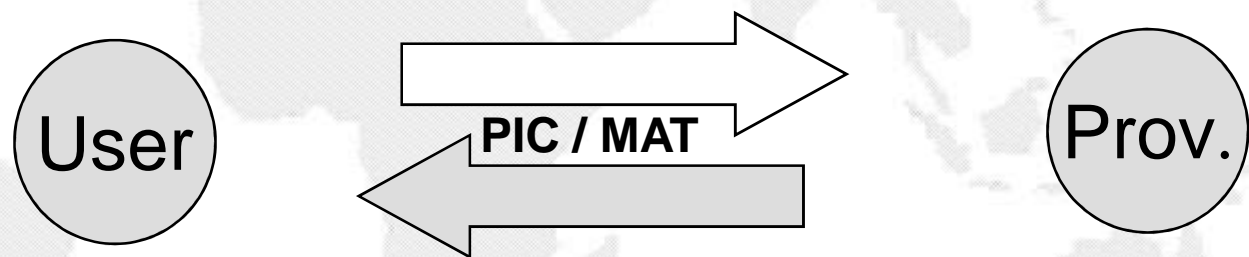


For the first time integration of biodiversity conservation and sustainable development in one UN-Convention



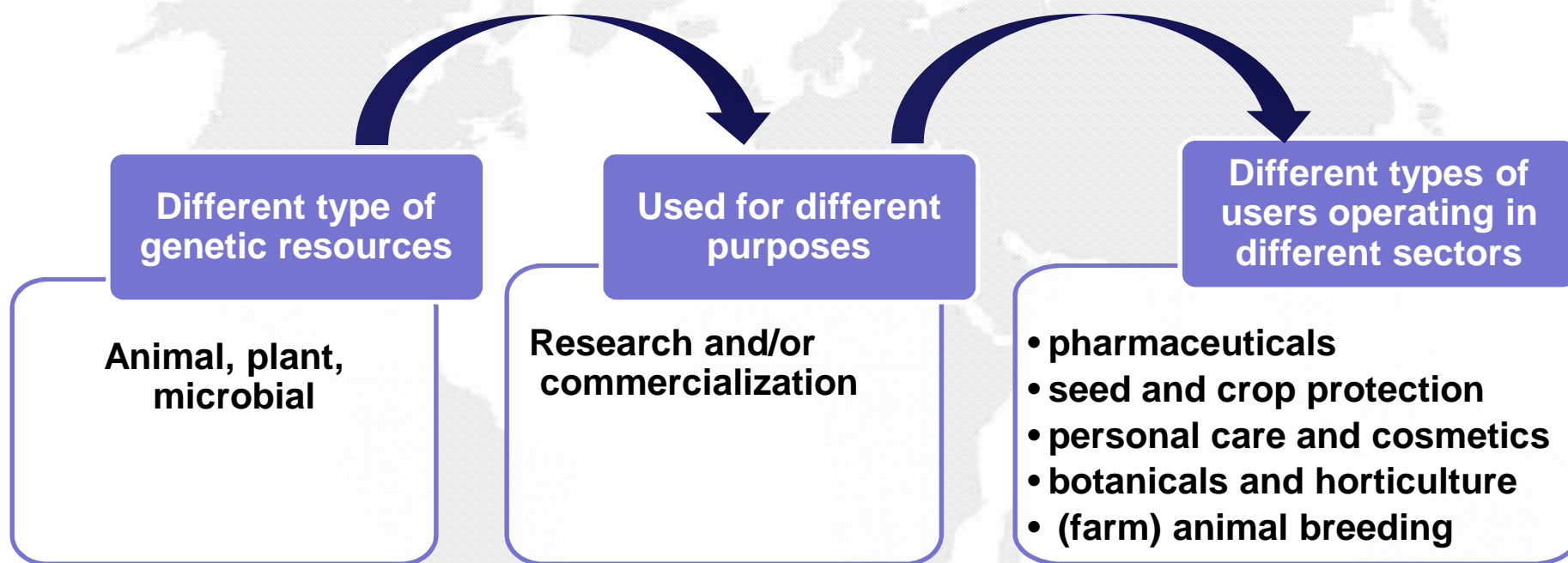
“Logic” of CBD regarding Access regulations

„**resource-rich**„ countries shall facilitate the access to genetic resources



„**technology-rich**“ countries shall share benefits arising from GR; facilitate the access to technologies and means important for conservation and use

ABS – the concept



A large number of actors involved, rarely one provider and one user (e.g. intermediaries)

The International Regime on ABS

Convention on Biological Diversity – legally binding for its Parties

- Art. 2 – use of terms
- Art. 8(j) – benefit-sharing from the utilization of traditional knowledge (TK)
- Art. 15 – access to genetic resources based on prior informed consent (PIC) and mutually agreed terms (MAT) and with sharing of benefits arising from utilization of genetic resources (GR)
- Art. 16.3 – access to and transfer to technology, which make use of such resources, for providers of GR
- Art. 16.4 – private sector to facilitate access to, joint development and transfer of technology for providers of GR
- Art. 19.1 – effective participation in biotechnological research for providers of GR from such research
- Art. 19.2 – priority access for providers of GR to the results and benefits arising from biotechnologies based on provided GR

Bonn Guidelines – guideline for drafting ABS agreements and national regulations

Nagoya Protocol on ABS – legally binding for its Parties

International Treaty for Plant Genetic Resources for Food and Agriculture – under the FAO

The Nagoya Protocol

Art. 2 (c), (d) and (e) - Use of terms => broad definition of “utilization of GR”

- to conduct **R & D** on the **genetic and/or biochemical composition** of GR,
- including through the application of **any technological application that uses biological systems, living organisms**, (i.e. “biotechnology”)
- or **naturally occurring biochemical compound** resulting from the **genetic expression or metabolism of biological or genetic resources**, even if it **does not contain functional units of heredity**, (i.e. “derivative”)
- to make or modify **products or processes for specific use**

Art. 5 - Fair and equitable benefit-sharing (BS)

- BS from the **utilization of GR as well as subsequent applications and commercialization** based on MAT
- May include monetary and non-monetary benefits
- BS from the **utilization of TK associated with GR** with indigenous and local communities (ILCs) based on MAT

The Nagoya Protocol

Art. 6 – Access to GR

- **based on PIC, including PIC of ILC** where they have established rights to grant access
- Parties requiring PIC shall
 - provide for legal certainty, clarity and transparency
 - provide a written decision by a competent national authority – cost-effective and in a reasonable period of time
 - Issue at the time of **access a permit as evidence of PIC and MAT** and notify the ABS Clearing-House

Art. 7 – Access to TK associated with GR

- in accordance with domestic law based on PIC of and MAT with ILC

Art. 8 (a) – Special consideration for non-commercial research

- **simplified measures on access**, taking into account the need to address a **change of intent** for such research

The Nagoya Protocol

Art. 12.3 – TK associated with GR

- Parties shall support the development of **community protocols** for access to TK associated with GR as well as minimum requirements for MAT and model contractual clauses for BS with ILCs

Art. 14 – ABS Clearing-House and information sharing

- Information to be made available by Parties **without prejudice to the protection of confidential information** shall include
 - ABS policies, legislation and regulations
 - National focal point and competent national authority or authorities as established under Art. 13
 - Access permits (see Art. 6), which will then constitute an **internationally recognized certificate of compliance** (see Art. 17.2)

The Nagoya Protocol

Art. 15 and 16 – Compliance with domestic ABS legislation/regulations on GR and TK associated with GR

- Parties **with users of GR under their jurisdiction**
 - provide that GR are being accessed in accordance with PIC and MAT requirements of the providing Party
 - Take measures to address situations of non-compliance

Art. 17 – Monitoring the utilization of GR

- through the **designation of one or more checkpoints** collecting information on PIC, source of the GR, establishment of MAT and/or the utilization of GR
- address non-compliance by users to provide such information

Art. 18 – Compliance with MAT

- MAT shall include **dispute resolution clauses**

The EU-ACP BIOPAMA Project

BIOPAMA = Biodiversity and Protected Areas Management

- ***20 Mio Euro under the 10th EDF***
- ***4 years starting 2011***
- ***2 components:***
 - **Protected Areas component**
 - ***Budget : 15 Mio Euro***
 - ***Implementation: Joint Research Centre of the EC (JRC) and IUCN***
 - ***Program Offices in Nairobi (Kenya), at CATIE (Costa Rica) and at SPREP (Samoa)***
 - **ABS component**
 - ***Budget: 5 Mio Euro as contribution to the ABS Capacity Development Initiative***
 - ***Implementation: GIZ***

The EU-ACP BIOPAMA Project (cont'd)

Intended results:

- ***Protected Areas component***
 - Improvement of PA planning and management by the use of scientific and policy information for sustaining ecosystem services and reducing poverty of local populations
 - Setup of a “Centre for Protected Areas and Biodiversity” (Observatory) in each of the three regions
- ***ABS Component***
 - Improvement of capacities of stakeholders to participate in negotiations of the international ABS regime
 - Improvement of capacities to develop and improve ABS conditions at national level

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How the "Initiative" took off

2005: WG-ABS 5, Bangkok

African request for support

Implementing Action Plan
Capacity Building ABS VI / 24 b

gtz

Programme Implementing the Biodiversity Convention

commissioned by
Federal Ministry
for Economic Cooperation
and Development

Nederlandse Zaken
Ontwikkelings
samenwerking

since 2007: multi-stakeholder steering committee and



DANISH MINISTRY
OF THE ENVIRONMENT



Governance of the Initiative

Hosted by the BMZ

Secretariat of the Initiative (commissioned by BMZ to GTZ/GIZ)

- Responsible for the implementation of the yearly workplan
- Prepare meetings and decision making of the Steering Committee

Steering Committee (donors, partners and African stakeholder representatives)

- Agrees on yearly workplan and budget (prepared by the Secretariat)
- Appoints African stakeholder representatives
- Endorses financial and narrative report of the Secretariat



The objectives of the Initiative

- **Increased awareness** of policy makers and legislators on ABS
- **Participation of all relevant stakeholders** incl. ILCs
- Improved **regional cooperation** on ABS (negotiation / implementation)
- Development of **partnerships for business opportunities**



Short term:

- **Strengthen the knowledge** of all relevant stakeholders
- **Build and strengthen a network** of (African) ABS expert

**8 instruments - 3 hubs in Africa
plus Caribbean and Pacific:**

- 1. Multi-stakeholder workshops**
- 2. Issue or stakeholder-focused trainings**
- 3. Peer-to-peer knowledge exchange**
- 4. Best practices with the private sector**
- 5. Knowledge management and information exchange (CHM)**
- 6. Technical / regional background studies**
- 7. CEPA for ABS**
- 8. Inputs on ABS to relevant (CBD) meetings**



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The elevator principle

Level of intervention	Preparation of national ABS authority	Other stakeholders	Main instruments
UN level	International negotiations	ABS authorities of other countries	<ul style="list-style-type: none"> ⑧ Stakeholder inputs on ABS to relevant meetings ⑥ Technical papers and studies ⑦ CEPA for ABS
(Sub-)regional level	Harmonization of legislation	ABS authorities of other countries	<ul style="list-style-type: none"> ① Multistakeholder Workshops ⑤ Information exchange / CHM ② Issue based trainings ⑥ Technical papers and studies ④ Best practices with the Private Sector ⑦ CEPA for ABS
	Regional cooperation	Academia Private Sector Communities	
National level	Laws and regulations	Academia Private Sector Communities	<ul style="list-style-type: none"> ④ Best practices with the Private Sector ③ Peer-to-peer knowledge exchange ⑦ CEPA for ABS
Local level	Implementing and monitoring	Academia Private Sector Communities	<ul style="list-style-type: none"> ④ Best practices with the Private Sector ③ Peer-to-peer knowledge exchange ⑦ CEPA for ABS

Focus until 2010
 ↑
 Focus from 2011 onwards
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↑

Developing recommendations

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Developing and implementing recommendations

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Supporting (sub-)regional ABS implementation

- **Sub-regional ABS policies/strategies**
 - COMIFAC: sub-regional strategy developed and endorsed
 - SADC: integration of ABS in regional biodiversity strategy, development of a regional R&D platform with the private sector
 - ECOWAS: support requested
- **Regional coordination and political/ministerial awareness**
 - Support to the African Group in the preparations for the negotiation of the ABS protocol – at the technical and political level through delegates briefings, coordination meetings and ministerial conferences
 - AUC: Involvement and support requested



Supporting national ABS implementation

- **National ABS policies and regulations**

- UNEP/GEF project covering Cameroon, Kenya, Madagascar, Mozambique, Senegal and South Africa: Support for national development and implementation of ABS policies and regulations
- Specific measures in Benin, Kenya, Liberia, Madagascar, Namibia: e.g. national workshops, consultancy, backstopping of national processes
- Interest signaled by / proposal submitted by Botswana, Malawi, Mali, Morocco, Nigeria



Supporting local ABS implementation

- **ABS partnerships with the private sector**
 - Business Dialogue Forum
 - PPP with the Union for Ethical BioTrade (UEBT) and PhytoTrade Africa: Mainstreaming ABS into supply chains of member companies – focus Southern Africa
 - PPP with UEBT and Natural Justice: Testing Biocultural Protocols (BCPs) as interface between private sector and ILCs in Madagascar, Brazil and Peru
- **Participation of ILCs**
 - Pilot projects with Natural Justice and COMPAS on BCP development: Ethiopia, Ghana/Burkina Faso/Benin, Kenya, Namibia and South Africa



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Challenges for Implementing the ABS Protocol

Field of Action	Policy objective
Ratification/implementation	Decide whether or not to ratify the Nagoya Protocol on ABS
Define an overall ABS policy/strategy	Clarify national approach for regulating ABS (e.g. protective vs. enabling environment)
Putting in place domestic ABS legislation and regulations	Create legal certainty
Stakeholder engagement	Ensure commitment and compliance of different stakeholders
Establish institutional arrangements, including Competent National Authorities	Facilitate implementation with clear institutional responsibilities
Dealing with traditional knowledge (TK)	Facilitate benefit-sharing with TK holders
Dealing with trans-boundary issues	Avoid conflict and create synergies
Valorisation approaches	Turn the potential economic value of GR and TK into actual income and economic development



Capacity Development for Implementation: Challenges ahead

- Continued capacity development / experience exchange at **sub-regional level** and with specific stakeholders - focus on national and local implementation challenges
- Continued work on **cross-cutting issues** relevant for ABS implementation: forests, land tenure, CEPA, IP, relationship to other agreements, bio-cultural community protocols, ...
- Stronger **support for national-level implementation**: create flagship projects and best practices for ABS implementation
- **Valorization Initiatives** to implement ABS: PPP support for business initiatives, establishing R&D platforms, inventories, TT, ...
- **Resource mobilization** for ABS implementation activities (GEF, bilateral donors, regional / national level,)
- Broadening the **regional scope** to cover all ACP countries (based on EU funding)



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Thank you

**.....more on ABS and the
ABS Capacity Development Initiative**

-> brochure “local to global”

-> www.abs-africa.info