

Fourth Access and Benefit Sharing Workshop for Eastern and Southern Africa

Day One

The Nagoya Protocol on Access and Benefit Sharing and Introduction to the Fields of Actions

1. Opening Ceremony

1.1. Welcoming Remarks

Dr Yanira M. Ntupanyama, Director of Environmental Affairs of Malawi, acting as the master of ceremony, introduced the members of the panel which was composed of the guest of honour, Honourable Vera Chilewani, Deputy Minister of Natural Resources, Energy and the Environment of Malawi, Mr Ben Botolo, Secretary for Natural Resources, Energy and the Environment of Malawi, Mr Asbjorn Eidhammer, Ambassador of Norway in Malawi, Mr Alexander Baum, Head of the European Union (EU) Delegation to Malawi and Dr Andreas Drews from the Access and Benefit Sharing Capacity Development Initiative (ABS Initiative).

Dr Andreas Drews from the ABS Initiative addressed a warm welcome to the official delegation of Malawi, the Ambassador of Norway, the Head of the EU Delegation and the participants and invited them to watch a short animated movie titled 'The Access and Benefit Sharing (ABS) Simply Explained' as an introduction to the meeting. Dr Drews closed his allocution by thanking the Minister of Malawi for the support provided to the ABS Initiative in organising the workshop.



[Link to the ABS Simply Explained](#)

Following the projection, Dr Ntupanyama invited each participant to introduce themselves and gave the floor to the other members of the panel.

Mr Asbjorn Eidhammer, Ambassador of Norway in Malawi, greeted the members of the panel and welcomed the participants. Mr Eidhammer emphasised how Norway had been particularly active with regard to ABS issues and that this was illustrated by its continuous support to the ABS Initiative. He informed the audience that Norway had signed the Nagoya Protocol (NP) on the 11th of May 2011 and will now put a special attention to its ratification and implementation. He went on to say that the Norwegian's position was not only to advocate the implementation of an ABS regime for the protection of biodiversity but also to reduce poverty. Mr Eidhammer reported that Norway was also supporting a wide range of programmes for the conservation and the sustainable use of the biodiversity in Malawi. He ended his statement by highlighting the need for a comprehensive awareness campaign on the NP and its implementation at all levels in Malawi.

Mr Alexander Baum, Head of the EU Delegation to Malawi, greeted the Deputy Minister of Malawi, the members of the panel and stated that he was very pleased to welcome the participants to this very important workshop on ABS implementation. Drawing the attention to the current and unprecedented loss of biodiversity, Mr Baum highlighted the importance of

an international regime on ABS to provide incentive to countries to preserve their biodiversity. He went on to say that this workshop was happening as a very opportune time as for the African countries and the region, it was very important to move quickly on the implementation of the NP. Identifying and discussing the different implementation approaches was therefore essential. Referring to the host country, Mr Baum pointed out that Malawi's rich biodiversity and associated traditional knowledge (TK) were offering many ABS and biotrade opportunities with great potential to improve the livelihood of rural communities. While commending the German and Norwegian governments for their generous support contribution to ABS Initiative, Mr Baum was glad to announce that the EU had also become in 2011 a donor to the Initiative to support its extended work, beside Africa, in the Caribbean and Pacific regions. He highlighted one more time the importance of such a workshop for the coherent implementation of the NP at national and regional levels. He concluded by saying that he was looking forward to the first results of the discussions which he hoped will bring the realisation of the objectives of the CBD a step closer.

Mr Ben Botolo, Secretary for Natural Resources, Energy, and the Environment of Malawi extended a warm welcome to the members of the panel and the participants. He informed the audience that Malawi was very pleased to support such a workshop that will enable to showcase Malawi's rich biodiversity. He highlighted Malawi's commitment to the conservation and the sustainable use of biodiversity and invited the Deputy Minister to officially open the workshop.

1.2. Official Opening of the Workshop

Honourable Vera Chilewani, Deputy Minister of Natural Resources, Energy and Environment of Malawi thanked the Members of the Panel and warmly welcomed the participants to the workshop. The Deputy Minister highlighted Malawi's commitment to the signing and the ratification of the NP. She stressed the importance of taking advantage of the Protocol to explore the opportunities that could arise from African countries' rich biodiversity to improve livelihoods of the rural communities and nations at large. She reiterated that the workshop was happening at a very opportune time and thanked the ABS Initiative for providing the financial and technical support to organise activities, such as this workshop, to build capacity and facilitate the implementation of the protocol. While inviting the participants to enjoy the uniqueness of Malawi's biodiversity during their stay, Ms Chilewani declared the workshop officially opened.

The participants and the members of the Panel gathered to take a group photograph.

Speeches: Mr Asbjorn Eidhammer, Ambassador of Norway
Mr Alexander Baum, Head of the EU Delegation to Malawi
Honourable Vera Chilewani, M.P. Deputy Minister of Natural Resources, Energy
Group Picture

2. Introduction to the Workshop

2.1. Objectives, Agenda and Programme

Dr Drews informed the participants that the overall objective of the workshop was to examine the implementation of the NP using the eight fields of action identified during the Fifth Pan African ABS Workshop which took place in Marrakech in January 2011.

Mrs Kathryn Heidbrink extended a warm welcome to the participants and introduced the Agenda for the week as follows:

- Day One will first focus on the NP, its contents and key concepts and briefly introduce briefly the eight fields of action identified in Marrakech.
- Day Two will explore the eight fields of action in more detail, focussing on thematic and strategic areas such as defining a national policy on ABS.
- Day Three will examine the national case study of the Strophanthus Kombe and discuss thoroughly the different implementation phases of the fields of action with a particular attention given to the 'Stocktaking and Analysis' phase.
- Day Four will present various sources of funding at the Global Environmental Fund (GEF) and provide a brief overview the outcomes of the Expert Meeting on ABS & Intellectual Property Rights (IPRs) while consolidating the discussion around the eight fields of action.
- Day Five and Six will focus on strategic communication for ABS implementation.

2.2. Getting to Know Each Other

Ms Heidbrink proposed a quick exercise which enabled to identify the various groups of stakeholders present in the room and invited each participant to introduce themselves to their neighbours and list the various expectations they had from the workshop.

3. The Nagoya Protocol

3.1. Overview of the Nagoya Protocol and Introduction to its Key Concepts

- ◆ **The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilisation by Dr Andreas Drews from the ABS Initiative.**

Dr Drews introduced his presentation by stating that the NP was the end product of a long period of negotiation. He indicated that the protocol aimed to provide an international legal framework that will ensure that benefit sharing happens when Genetic Resources (GRs) are used. He went on to say that users and providers must reach an agreement on the use of GRs and the sharing of the benefits arising from them - this could be monetary or non-monetary benefits. He then stressed that the NP was essentially contributing to the third objective of the CBD while still addressing the other two objectives: *"the fair and equitable sharing of benefits arising from the use of GRs for the conservation and sustainable use of biological diversity"*.

Dr Drews reported that the scope of the NP included GRs (according to Article 15 of the CBD, TK associated to GRs (in accordance with the CBD) and the benefits arising from their utilisation.

Dr Drews introduced the four core elements of the NP as follows:

- Access (Article 6)
- Fair and equitable sharing (Article 5)
- Compliance: Obligations ((Article 15, 16, 17 & 18)
- TK associated with GRs (Article 7, 12, 11 (2) and 16.

Dr Drews highlighted that the NP provided for a number of opportunities such as a global multilateral benefit sharing mechanism for transboundary situations for which Prior Informed Consent (PIC) could not be obtained. He concluded by saying that if well-implemented, the NP could enhance the contribution of biological diversity to sustainable development and human well-being.

Presentation: The NP and link to the SCBD NP Factsheet @ <http://www.cbd.int/abs/>

3.2. Group Work to Deepen the Understanding of the Nagoya Protocol

Each table of participants was invited to pick one core element (or concept) of the NP and asked to:

- Read and discuss the related references in the protocol; and
- Formulate three main questions they had on this core element (or concept).

Answers to the questions raised on the Four Key Concepts of the NP are indicated in the tables reported in the related PDF document below.

Results of Group Work on Deepening the Understanding the NP in a PDF Document

3.3. Signature and Ratification

◆ Becoming a Party to the Nagoya Protocol presented by Dr Suzanne Reyes-Knoche from the ABS Initiative.

Dr Reyes-Knoche explained in detail the two step process to become a party of the NP:

- First step – Signature (see Article 32 of the NP): The signature does not result in any legal obligation. In principle, it means that a country will not do anything that would go against the object and purpose of the treaty, in this instance the NP, which it has just signed. By signing, countries demonstrate a will to be part of the international regulation.
- Second step – Ratification, Acceptance, Approval or Accession (see Article 33 of the NP): All the above mentioned terms have the same legal effect and result in the national implementation of a protocol or treaty. Each country should opt for the process that is the most suitable to its context.

Dr Reyes-Knoche concluded by indicating that the NP will enter into force 90 days after the deposit of the 50th instrument of ratification, acceptance, approval or accession.

Remarks from the Floor

- If you have not signed, you are still able to ratify the protocol even after the time period for signature is over.
- Sanction mechanisms do not exist in the NP but it is hoped that countries will not misbehave.
- 'Ratification' generally involves approval by the national parliament.

Presentation: Becoming a Party to the NP and link to the SCBD Factsheet @
<http://www.cbd.int/abs/becoming-party/>

4. Implementation: Fields of Action

4.1. Introduction to the Eight Fields of Action by Kathryn Heidbrink

Mrs Heidbrink introduced the eight fields of action underlining the fact that they were not sequential. These were as follows:

- 1) Ratification and implementation
- 2) Defining an overall ABS policy and strategy(ies)
- 3) Putting in place domestic ABS legislation and regulations
- 4) Establishing institutional arrangements
- 5) Dealing with TK
- 6) Dealing with transboundary issues
- 7) Defining a valorisation strategy
- 8) Stakeholder engagement (relevant for each field of action)

Mrs Heidbrink pointed out that the results of Marrakech highlighted that to unfold and prosper, ABS required actions in several policy areas. She also stressed that though these fields of action might not cover all issues or areas, they were a good indication of where to start and what to do when initiating the ABS implementation process. She ended her presentation by pointing out that 'stakeholder engagement' was a cross-cutting issue which undergirds the importance of involving all relevant stakeholders, in particular indigenous peoples and local communities (ILCs) in every step of the implementation process. This field therefore holds importance in every other fields of action.

Presentation: Fields of Action

4.2. Group Work: First Impressions on the Eight Fields of Action

Participants were divided in eight groups. Each group was asked to select a field of action, discuss what it is about and design a short sketch that shows a typical situation or challenge that they were likely to encounter in this particular field of action. The eight sketches were then presented in the form of a play in eight acts entitled 'the ABS Implementation in Africa'.

Pictures and short movies

End of Day One

Day Two

The Fields of Action (Cont.) and Introduction to Fundamental Policy Options to Define an Overall Access and Benefit Sharing Strategy/policy

1. Implementation: Fields of Action (Cont.)

1.1. Coming to Grips with the Eight Fields of Action presented by Kabir Bavikatte from Natural Justice, South Africa

Mr Kabir Bavikatte provided a brief overview of the 5th Pan African workshop in Marrakech and a detailed review of the eight fields of action developed by the participants in Marrakech:

Ratification and Implementation: The role of the ABS Focal Point (FP) is to advise ministers in each country on the ratification process and turn them into ABS champions. But why so little countries have ratified the NP by now? This process is not as straight forward and most countries need to implement the necessary measures at national levels to address the various obligations of the protocol.

Defining an Overall ABS Policy/Strategy(ies): What would be the process to have a proper bioprospecting permit? What would be the strategy that would help to implement appropriate policies and regulations? How do you isolate the ABS component in National Biodiversity Strategies and Action Plans? It is advisable to first examine existing laws in each country which could be amended to serve ABS issues as opposed to start developing one stand-alone policy on ABS.

Putting in Place Domestic ABS Legislation/Regulations: It is also advisable to consider existing laws in each country and explore the issues raised in countries which already had ABS laws in place prior the adoption of the NP (South Africa or Namibia for instance). Existing laws cannot be undermined by the NP. However, they have to be harmonised and aligned with the NP while at the same time addressing each country specific context. While national legislations and regulations are being developed, interim measures such as setting up guidance for PIC and Mutual Agreed Terms (MAT) agreements would be useful. The NP does not necessary imply to implement a full legislation, it could be just simple directives to address the various important points of the protocol.

Establishing Institutional Arrangements: It is necessary to harmonise the different national institutions and establish institutional arrangements to ease the ABS process between provider and user countries. One institution, a FP, for instance, could act as a 'one stop shop' and deal with all applications including forwarding them to the relevant ministers.

Dealing with TK: The process of TK documentation is a significant issue. We are currently slowly moving towards 'databasing' TK. There are two issues at stake in this process. First, it is important to acknowledge that TK exist in a country. Second, it is imperative to know who is going to give consent and which traditional process needs to be followed. It is also essential to:

- Address the issue of existing knowledge across communities.
- Define the reason why you are documenting TK and who are documenting it for?
- Build the TK of the younger generations. Indigenous Peoples should document TK themselves to build this capacity from within in order to make sure that this knowledge still belongs to the communities.

Dealing with Transboundary Issues: It is necessary to harmonise the ABS laws of different countries in Africa and develop some regional arrangements with regard to transboundary GRs and/or TK/associated TK. Some countries have existing laws to deal with transboundary issues which could be used as an entry point and harmonised to be aligned with the NP.

Defining a Valorisation Strategy: Identify ways and means to value your biodiversity and associated TK and develop a valorisation strategy accordingly.

Stakeholder Involvement: Decentralise responsibilities for a more homogeneous process and involve all relevant stakeholders from the beginning of the process.

1.2. Discussion Key Points

- Each one of the eight fields is necessary. It is hoped that countries will go through them and also learn from this practical process.
- Regarding institutional arrangements, some laws already exist and could be used to move ABS implementation forward.
- It is advisable to ease the process for user countries to apply as opposed to see them go around the law or address their request to other countries.
- Regional cooperation on ABS is as important as its implementation at national level.

2. Implementation: Defining an Overall Access and Benefit Sharing Policy/Strategy(ies)

2.1. Introduction to Fundamental Policy Options

Ms Heidbrink highlighted that developing a strategy meant taking fundamental strategic decisions. A strategic decision for something means to take a strategic decision against something. She then presented the four different strategic options for defining an overall ABS policy as follows:

- A market oriented vs. protective approach
- A cross-sectoral vs. stand-alone regulatory framework
- A centralised permit system vs. a centralised permit system
- A monitoring vs. a scrutinising checkpoint system

The above mentioned strategic options are based on the work policy options for government from Geoff Burton from the United Nations University and were presented through a role play by Dr Andreas Drews and Dr Susanne Reyes-Knoche.

2.2. Coming to Grips with the Implications of Different Policy Options

2.2.1. Group Exercise

The participants were divided into four groups and asked to reflect on the strong points and advantages of each policy option/approach and put their results on the flip charts prepared to this effect. Participants were also indicated that:

- The aim of the exercise was to provide clarifications on the different strategic options for implementation and build delegates' capacity to help them make more informed decisions at country level.
- The results of this brainstorming exercise would certainly still raise questions as ABS strategies will depend on the circumstances of each country.
- The NP was specific with the number of legally responsible national FP. Nevertheless, this body could delegate some of the responsibilities. Therefore, such a decision has to be taken at national level.

2.2.2. Sharing Results

The results of this exercise are reported in the related PFD document below.

[Results of Group Work on Coming to Grips with the Implications of Different Policy Options PDF Document](#)

3. Preparation of the Field Trip

Chris Dohse from TreeCrops provided a brief overview of the field trip to the forest and natural habitat of the strophanthus Kombe.

End of Day Two

Day Three

The Case Study of the Strophanthus Kombe and Access and Benefit Sharing Implementation Phases

1. Case Study: The Sustainable Use of the Strophanthus Kombe in Malawi

1.1. Field Trip to the Natural Habitat of the Strophanthus Kombe

Day three started with a short field trip to the forest and natural habitat of the Strophanthus Kombe located at a twenty minute drive from Mangochi. Mr Dohse welcomed the participants with three members of the local communities and a representative of the Forest Department of Malawi who presented with him the case of the strophanthus Kombe. Mr Dohse briefly introduced TreeCrops Ltd (TCL) as a private company committed to fair and equitable trade which aim was to support rural communities to generate income through sustainable natural resources. He also indicated that TLC's activities were certified using organic and ethical biotrade standards. He explained that the company's raw materials were obtained from wild collections and that, through this harvesting process, TCL had developed a close relationship with the communities. The team of presenters then provided comprehensive information on the Strophanthus Kombe and its natural habitat as well as on the contractual arrangements between TCL and the communities in the context of TCL's partnership with Weleda, a leading world manufacturer of natural and organic cosmetics and pharmaceuticals. Participants were informed that Weleda was also committed to the fair trade principles and practices.

In 2007, TLC engaged in a strategic partnership with Weleda to build a sustainable supply chain for the Strophanthus Kombe. The Strophanthus Kombe, which grows as liana around trees is a very important medicinal plant for Weleda as the active ingredient contains in its seeds is used in anthroposophic (1) medicine for patients with cardiac insufficiency. Though not patented, this property of the Strophanthus Kombe's seed is derived from its traditional use as arrow poison by African hunters. Unfortunately, the sourcing of this plant has become difficult due to the continuing deforestation and destruction of habitats in African countries where it is found. Malawi being no exception, the forests where Strophanthus Kombe grows have become rare and face extreme pressure from farming, fuel wood collection and charcoal production. It was therefore of the highest importance that the trade relationship was based on the conservation and sustainable use of the forests and habitats essential to the Strophanthus Kombe's survival. TCL started raising awareness among the local communities to demonstrate that collection of the plant on an annual basis was more profitable than cutting the trees down for charcoal production.

Registered collectors receive a comprehensive package which includes training on sustainable harvesting practices and post harvesting practices, packing, traceability and trade aspects as well as regular updates on market trends, collection and production methods. As most forest resources are found on customary lands, TCL works closely with the communities to map the areas of where the Strophanthus Kombe is found. When TCL enters into contractual arrangements with a community, the agreement requires that the parts of the forest on which Strophanthus Kombe is found shall not be cleared and turned into farmland. Such arrangements coupled with the ABS mechanism developed by TCL provide strong incentive for sustainable use and conservation of the forest and aim to ensure the multiplication of the

resources.

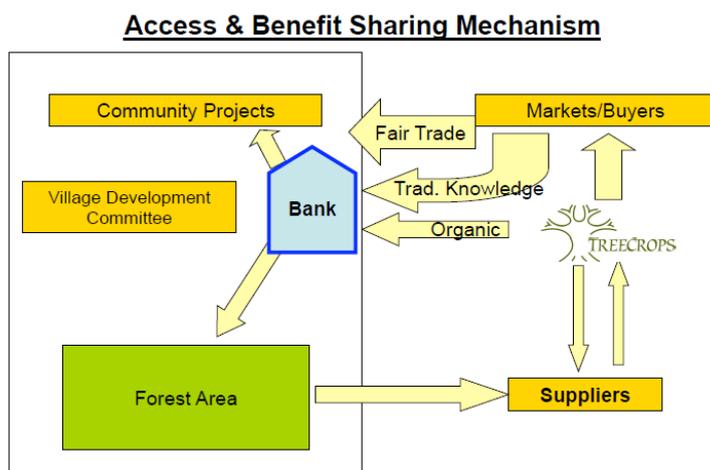
Today, the collection of *Strophanthus Kombe* enables communities to protect and benefit from their forest while providing them with a regular income from TCL and Weleda. On behalf of the communities, TCL reinvests a part of the incomes generated in a fund for social projects, so that the collection of *Strophanthus Kombe* benefits both collectors and all members of their community.

(1) *Anthroposophic medicine or therapy constitute a holistic and human centered approach to healing and understanding human illness (Association for Anthroposophic Medicine & Therapies in America (<http://anthroposophicmedicine.wordpress.com/>))*

1.2. Panel Discussion – When does Access and Benefit Sharing come in?

The panel was composed by Dr Andreas Drews (moderator), Chris Dohse, three community representatives (collectors) and the representative of the Malawi Forest Department.

The following is a summary of the questions asked and answers provided by the panel members:



Q1: *Could you provide more explanation on how the benefit mechanism developed by TCL work?*

A1: *Strophanthus Kombe is a biotrade commodity collected by the communities. The communities are paid for the collection but in order to bring benefit sharing to life, they are also receiving a levy for the use of TK. This mechanism was developed out of the organic*

certification collection process used from which communities also receive an 'extra' payment called 'organic premium'. Additionally, as an incentive to protect the forest area, communities are paid another levy for the use of community resources. All payments are put on a bank account which is held by TCL on behalf of the communities. TCL regularly informs the communities on the state of the account. The communities decide, via a Village Development Committee, what community project they want to use the money for. The collectors have the project to form their own organisation and to apply for both organic and fair trade certifications. The company will not be involved in the Fair Trade certification as this process has to be community driven. However, TCL will provide some support where necessary as Fair Trade certification is usually very difficult to obtain on a wild collection. TCL will shift the responsibility of the bank account to the communities as soon as the collector's organisation will be established.

Q2: *What does it mean for you to be a register collector?*

A2: *It brings in more benefits. The harvesting of the *Strophanthus Kombe* allows us to have an extra income. The 'extra' money received for the compound helped us to fix the borehole in*

our community and preserve our fields. Our village is looking forward to the 'premium' to develop additional community projects to sustain our life.

Q3: *Hence there are benefits for both personal livelihood and for the entire community but how is the decision to spend the premium made?*

A3: Few members of the communities are working on the different projects developed with TCL. Some community members disregard such arrangements. Other people did not want to sell their natural resources to them. People choose to join or not a club as we work in club groups in each area. We have established a community structure to manage and decide on which community projects to spend the 'premium'. Collectors act as a go-between for TLC and the communities as well as for the chief and the community members.

Q4: *TK is triggering the benefit and sharing arrangement, could you tell us if you have received any training on this?*

A4: The training involved as much as community members as possible in different communities/villages and explained how this system works. We are very motivated to map additional areas to be able to spread the benefit sharing mechanism and the multiplication of resources. We are looking at more areas to use under such a system. We are also trying to raise awareness in the different communities about the value of natural resources while reminding them that the forest is their resource and that they have to protect it.

Q5: *Therefore, benefit sharing is an incentive to support sustainable harvesting and the protection of the forest. What is the role of the Forest Department?*

A5: The role of the Forest Department is to inspect what the communities are doing in the forest and how they are using the resources.

Q6: *It is much more a biotrade case than an ABS case. Is there use of a GR as such?*

A6: It is a biotrade case. In this specific case, the access to the GR as per the NP took place more than 50 years ago. Even if it was an ABS case, there were no ABS regulations in Malawi to follow. This whole benefit sharing mechanism was developed before the NP. It is a model that we created as both TLC and Weleda wanted the community to benefit more about this trade as TK was involved in the development of the drug. Though we called it ABS agreement, it has been developed on organic trade and we found out that it fits different kinds of trade. There is another project which could trigger various ABS related mechanisms such as PIC, MAT, access permits and which could even lead to the co-ownership of a patent but there is still no appropriate ABS framework in Malawi. It is therefore very important to encourage the government to develop a proper legislation to address ABS issues.

Q7: *The difficulties of working in a non-regulated environment have just been highlighted. What does the government of Malawi plan to support the local communities and TCL and address ABS related issues?*

A7: There is an environmental bill, still in a draft format, on which communities representing different sectors will be consulted. Though there is no regulation, we will still consider TCL's request with the new perspective of having the NP and the draft bill.

Q8: *Could you clarify the business relationship between the collectors and TCL? What are the contractual arrangements?*

A8: TLC offers a trade on the basis of a contract based on the following aspects:

- Knowing who the register collectors are;
- Knowing what collectors are allowed to collect;
- Knowing that the land use of the forest will not change and the forest will be preserved over a three year period.

Communities are still free to change the land use but if the land use changes, all the benefit sharing structure will disappear. Any party can fall out of the contract at any time. The chief administers the contract. The collectors are registered and trained by TCL. All this feeds into the contract.

Q9: *Is there a competent legal practitioner representing the communities or helping them on contractual obligations?*

A9: No lawyer was involved to support to the communities. TCL followed communities' customary laws and invited the different chiefs for negotiating prices. The agreement was not too complex.

Q10: *This market is very small. There is no high demand so it is amazing that there is a market at all from which the communities benefit. If TCL would not be buying from you, would you have as much return?*

A10: No, as it is for drugs there is no market in Malawi for this specific commodity. However Baobab oil is sold in Malawi, France and South Africa and TLC also does address this market.

Q12: *Are these other commodities available on the market in Malawi and at a fair price? Again, if TCL would not be buying from you, would you have as much return?*

A12: Yes, they are. Communities are earning more money with TCL. Without TCL, we will have higher costs to sell these commodities and hence, we will not make so much income.

Dr Drews concluded the panel session by pointing out how this case study illustrated the complexity at times to discern a biotrade case from an ABS case while also highlighting the main challenges faced at local level when working in a non-regulated environment.

2. Implementation: Phases

Mrs Heidbrink highlighted that implementing ABS meant developing a whole new set of policies, laws and regulations and putting them into practice. She introduced the three main phases of the policy cycle such a process required as follows: (i) stocktaking and analysis, (ii) decision making, (iii) implementing. She then drew the attention to the fourth phase of the policy cycle, 'monitoring and feedback', a separate but essential activity in every policy cycle as the feedback derived from monitoring allows learning for future policies.

Mrs Heidbrink explained that each field of action could be seen as a specific thematic in the ABS implementation policy cycle with each field, thought interrelated with the others, addressing a specific objective within its own 'sub' policy cycle.

Mrs Heidbrink stated that as ABS was relatively new for most countries, 'stocktaking and analysis' was a very important phase. She concluded by inviting Mr Pierre du Plessis to highlight the necessary information that needed to be collected for each of field of action to address this first phase of the policy cycle.

Mr du Plessis reviewed the eight fields of action as follows:

Ratification and Implementation: If consensus, identify what are the national procedures for ratification of international treaties and then summarise what are the required inputs for developing an action plan for ratification. It is also crucial to analyse the political feasibility of the ratification and identify the key persons and institutions that might support or object the ratification.

Defining overall ABS Policies/Strategies: Clarify your national strategy and approach. To do so, an analysis of relevant national policies and strategies in place in relevant sectors and an analysis of key stakeholder groups will be necessary. Identify market opportunities and consider relevant business models of key industry players. Reflect on your logistical, financial and scientific capacity.

Putting in Place domestic ABS Legislation: Create a legal certainty. Very often, some legislations are in place to regulate natural resources. These are tools that countries can use to implement the NP. It is also necessary to do an analysis of existing domestic IPRs legislations as well as a stocktaking analysis of ownership and use-rights of biological resources, GRs and TK. These will all have implications on how your ABS law will look like.

Establishing Institutional Arrangements: A stocktaking analysis of existing, relevant and operational institutional arrangements is necessary, especially the ones that could be affected by the ABS legislation to be developed (and how these existing arrangements have to be modified). Look at existing trade partnerships in order not to destroy the means of livelihoods of some communities when developing your ABS law.

Dealing with TK: Consult ILCs on their expectations regarding the use of their GRs and TK while not creating too many expectations on their side when explaining what the NP is all about.

Dealing with Transboundary Issues: Look at existing examples of successful transboundary cooperation with regard to the utilisation of biological resources and GRs. Analyse communalities and differences in terms of legislations and regulations with your neighbouring countries as well as relevant transboundary IPRs provisions.

Valorisation strategy: It is essential to have a national valorisation strategy. To do so, a stocktaking and analysis of the taxonomy of the various species of your country and their potential for bio discovery is essential.

Stakeholder Involvement: It is a cross-cutting issue. Use the stocktaking and analysis work of the various stakeholders done for other fields of action and establish effective platforms and other communication tools for reaching out to the different groups to ensure their commitment to developing an ABS national legislation.

The discussion key points were as follows:

- It is important to recognise that some TK has been documented and put in the public domain. However, it is essential to look at future perspective on how to use this knowledge to create some income for the communities.
- There are increasingly fewer taxonomists worldwide. It is therefore necessary develop strategies or find solutions to work around this.
- This list is supposed to be an aide-memoire to help starting the ABS implementation process. It is not a prescriptive process. It will be each country's choice to decide what piece and amount of information is necessary with regard to their specific circumstances.

3. Coming to Grips with Stocktaking and Analysis – Group Exercise

This group exercise was presented as complementary to the previous group exercise and aimed to provide participants with additional information and guidance for them to develop a national process to implement the NP.

Participants were divided into eight groups, one group for each field of action. For their designated field of action, each group was invited to reflect on and address the following questions:

- 1) Who has the necessary information?
- 2) In which form(s) does this information exist?
- 3) How can you obtain this information?

End of Day Three Day Three

Day Four

ABS Implementation Phase (Cont.), Funding Options and the Role of the Focal Point

1. Implementation: Phases (Cont.)

1.1. Sharing Results

Mrs Heidbrink welcomed the participants to the fourth day of the workshop and invited them to share the results of the stocktaking and analysis exercise done the previous day. These are presented in the eight tables reported in the related PDF document below.

[Results of Group Work on Coming to Grips with Stocktaking and Analysis PDF Document](#)

1.2. Links to Decision Making and Implementation

The discussion that followed the presentation of the group exercise results highlighted the points listed below:

- Stocktaking and analysis is not an isolated activity, it is related to decision making and implementation phases.
- The results of a stocktaking and analysis provide a basket of options and ideas along with hints and tips – showing what is there in each field – so that participants will have comprehensive information they can use and/or adapt to make informed decisions and start the NP implementation process.
- The results of the exercise are non-exhaustive but could be used as a roadmap for ABS national implementation.
- The stocktaking and analysis method could be used to sensitise people, raise awareness or raise some stakeholders' interest.
- This exercise is a basis for decision making or if decisions had been made, to reshape and assess if these decisions have been made appropriately.

2. Implementation: Funding Options and Mechanisms

2.1. Introduction to Relevant Funds and How Apply for Them from Jaime Cavalier of the Global Environment Fund presented by Dr Drews from the ABS Initiative

Dr Drew informed the participants that the GEF was supporting ABS capacity development through different strategies programmes and by investing in regional projects and country-based projects. He then gave a brief overview of GEF funding opportunities through G5 (2010 – 14) – System for Transparent Allocation of Resources (STAR) and highlighted that it was up to the countries to define how much of this fund will be allocated to ABS related activities.

[Presentation: ABS at the GEF](#)

2.2. Overview of the Use of Funds for Access and Benefit Sharing Implementation by Countries participating to the Workshop

Dr Reyes-Knoche presented the conclusions of the short survey on sources of funding used by the different countries represented at the workshop. She reported that out of 19 Eastern and Southern African Countries:

- Four countries were currently using GEF 4 (Resource Allocation Framework or RAF) fund;
- Six countries were preparing an application for the NP Implementing Fund (NPIF) while six other countries were considering applying to it; and
- Two countries were preparing an application to GEF 5 (STAR) while seven countries were considering applying to this fund.

The results highlighted that most countries had not yet explored all the funding support available within the GEF and suggested that more clarity and information on how to access these various funds was needed.

2.3. Discussion Key Points:

- The small grants programme is a third programme but does not support ABS implementation as per se. It supports local communities and NGOs and medium sized projects (\$50/15 000). To get access to the fund you will have to go through your government. There is no direct access to this small grant programme. Co-financing is a requirement.
- ILC organisations or NGOs do get access to the fund but you need to make sure that you have the agreement of the government and the GEF FP. It is advisable to work closely with them as the government could keep the amount raised.
- STAR 5, GEF allocates several amounts to each country. Co-financing is also a requirement.
- GEF is looking for programmes that are almost done and then provide a complementary fund to finalise any project.
- The NPIF does not support early ratification of the NP – this support is provided by the capacity building for early entry into force of the NP programme administered by the CBD. The NPIF supports the implementation of the protocol.

3. Outcomes of the Expert Meeting on Access and Benefit Sharing and Intellectual Property Rights

3.1. Results of the Group Work on Prior Informed Consent, Mutually Agreed Terms, Access Permits and International Certificate of Compliance presented by Pierre du Plessis from the Centre for Research Information Action in Africa Southern Africa Development and Consulting (CRIA SA-DC), Namibia

Mr du Plessis provided a brief overview of the Expert Meeting on ABS and Intellectual Property Rights (IPRs) which took place in Addis Ababa, Ethiopia from the 5th to the 9th of September 2011. He explained that the rationale behind organising such a meeting was to explore, identify and examine the various links between ABS and IPRs and by doing so, create a basis for further discussion.

Mr du Plessis focussed on the results of the brainstorming exercise on the content of MAT, PIC, Access Permits and the International Certificate of Compliance. He indicated that these results were currently being merged and translated from a bullet point form to actual language, using the Bonn Guidelines and some legal expertise to produce practical guidelines on what information should be required in these instruments. He then informed the participants that this work and the other outcomes of the meeting will be presented and discussed in more detail at the 6th Pan African ABS Workshop that will be held in Limbé, Cameroun in January 2012. He concluded by presenting the detailed calendar of ABS and IPRS key events and suggested (joint) activities up to 11th Conference of the Parties to the CBD developed during the meeting.

3.2. Question and Answer Session

Q1: *Was the private sector represented in this meeting? What was their reaction on the results – are they workable? What about IP experts' impressions?*

A1: The private sector was represented and worked along with the other participants and IP experts while enlightening what would be practical or not. The major outcome of this work was the checklist of information expected to be required for PIC, MAT, Access Permits and the International Certificate of Compliance. All experts from both sides did not blink at the content of these results. It was very encouraging.

Q2: *What about resources common to different African countries?*

A2: A revision of the African Model Law is underway and should be addressing this issue. A regional approach and regional benefit sharing mechanisms is advisable to address such transboundary issues.

Q3: *Was PIC one of the key issues discussed?*

A3: Yes, due to its links to intellectual property laws. PIC is closely tied up to the disclosure of origin and this was the right forum to move the discussion on disclosure requirement forward. It is also essential to understand that instruments such as PIC, MAT and access permits are very important points of interface between ABS and IPRs and how they impact on IPRs work.

Q4: *ILCs – how will ILCs be identified for training and capacity building?*

A4: The modalities and criteria for the training have not been set as yet. We are usually working through existing networks to select the ILCs and the selection process should remain as such to identify ILCs and invite them to our meetings. However, the ABS Initiative encouraged anyone to suggest any other identification and selection process.

4. Role of the National Focal Point

4.1. ABS National Focal Points and National Competent Authorities in the Nagoya Protocol presented by Kabir Bavikatte from Natural Justice, South Africa

Kabir Bavikatte invited the participants to refer to Article 13 (a, b, c) of the NP in order to review the responsibilities assigned to the ABS FP. He highlighted its coordinating role between the CBD and the stakeholders as well as its informative role on all issues related to the NP as indicated in Article 14 of the protocol.

Mr Bavikatte drew attention to the fact that Article 13.2 also spoke about the appointment of a Competent National Authority (CNA) which responsibilities were more related to access permit and developing national regulations and guidelines. He emphasised the fact that such tasks were not specifically detailed in the protocol, not only suggesting a certain flexibility but also encouraging countries to be proactive in the implementation of this institution.

Mr Bavikatte indicated to the participants that the roles of both the FP and the CNA could be fulfilled by one single entity (see Article 13.3). He then concluded by providing a brief explanation on the purpose of the access permit or its equivalent (see Article 6.3 (e) and the Clearing House Mechanism (CHM) of the CBD (see Article 14 and Article 17.1(iii) & 2 essentially).

4.2. Key Discussion Points:

- This process and the discussion on the links between ABS and IPRs show how ABS FPs and CNAs have an important role and so have the PIC and MAT.
- Ideally the access permit and the international certificate should be the same document. The access permit will turn into an international certificate as soon as submitted to the CHM.
- The CHM will serve as third party repository so each country will designate one FP to enter the information for the CHM. It would then be possible to know if an access permit has been done for such or such GRs.

4.3. What does a Focal Point do?

Ms Heidbrink presented on the five typical roles of actors in a multi-stakeholder process. She stressed that, although the NP assigned a formal role to ABS FPs, they will have to take on other responsibilities as ABS processes are unfolding in many countries. She then initiated a debate by asking the participants to reflect on what would be the role of a FP in such a multi-stakeholder process. Would it be that of a stakeholder, an expert, an eminent person, a facilitator or broker?

The participants had a lively discussion on the topic, defending, in turn, each of the above mentioned roles. Some underlined that a FP should be neutral, gather and disseminate information. Other pointed out that a FP should, as a matter of fact, play these different roles but at different points in time. Some more argued that some of these roles were in contradiction with each other.

Ms Heidbrink resolved the debate by explaining that FPs were stakeholders as perceived as such by the other stakeholders. She added that, in fact, it will be the other stakeholders that will determine the role and the mandate of a FP. She closed the day by saying that to fulfil such a role, a FP would have to be flexible, sensitive and diplomat at times.

Presentation: The Role of the Focal Point

End of Day Four and end of the workshop for some participants.

Day Five

Communication, Education and Public Awareness for Access and Benefit Sharing – Part One

1. Introduction to Strategic Communication for Access and Benefit Sharing Implementation

1.1. Some General Things to Know about Communication by Kathryn Heidbrink

Ms Heidbrink indicated that this last session of the workshop aimed to look at a communication approach for ABS and analyse the different targeted audience/stakeholders. She first provided the participants with general tips and hints on communication. She then put the emphasis on the fact that during the next two days, they will be familiarised with several communication tools and good communication practices that they will be able to apply and adapt to promote ABS implementation in their respective countries.

1.2. Strategic Communication for Access and Benefit Sharing Implementation

Ms Heidbrink gave a brief overview of the key elements to consider when developing a strategic communication for ABS such as (i) knowing your stakeholders, (ii) being aware that mind-set, attitude and perception differ according to individuals and organisations and (iii) understanding that different goals require different approaches to communication. She highlighted the importance of credibility and trust to develop an effective communication. She then underlined that, because strategic communication has something to do with changing behaviours, it was therefore essential to formulate very clear communication objectives.

1.3. Communicating Access and Benefit Sharing: To Whom?

Ms Heidbrink reviewed each field of action and explained how communication could help to disseminate a specific message and assist with the development and implementation of a sound national ABS policy. She pointed out that there were different strategies one could use, different objectives and approaches to communicate them but that regardless of any approach, strategy or message used to communicate, it was essential to know who is the targeted audience and in this instance, the ABS stakeholders.

She concluded by summarising to the participants the four important steps in communication strategy's development:

- Know your stakeholders – find out what their perceptions and reality are.
- Define your objectives.
- Adapt your communication style to the needs or interests of the other party – adapt your message to their perceptions and their reality without compromising your objectives.
- Test your hypotheses.

1.4. Discussion Key Points

- It is important to define when and why you communicate with some stakeholders or involve them in your communication.
- It is important to consider the power situation when you are communicating. One should use different approaches when communicating with a subordinate, an equal or a more powerful person and adapt his/her strategy to the power relationship as well as his/her communication style to the needs of his/her interlocutors.
- When your communication is not going smoothly and breaks out, you will not achieve your objectives. It is therefore important to keep the communication going to attract the interests of third parties.
- The biggest challenge of all is to adapt your communication style to each and different audience that you aim to reach.
- It is also important to know your own needs very well in order to not compromise your own objective. Any communication is a negotiation but you should not compromise who you are, your position and your aims.

2. Focus on the Fields of Action ‘Policy/Strategy’ and ‘Stakeholder Engagement’

2.1. “Who are the Stakeholders?”: Stakeholder Map

From this point onward and for all the subsequent exercises, participants were informed that the focus will be placed on stakeholder engagement in defining the overall ABS policy/strategy. To perform these exercises, participants were advised to take the perspective of the ABS FP and /or the person(s) in charge of implementing ABS in the respective country. They were further explained that the series of assignments aimed to discuss the process leading to the development of a strategic ABS communication and provide hints and tips to getting started with the development of such a strategy.

◆ Group Exercise n°1

For the first exercise, participants were divided into four groups, each group representing one of the following countries: Malawi, Kenya, Uganda and Zimbabwe. Each group was then asked to draw a map of the various primary and secondary stakeholders for its designated country with regard to the field of action: ‘Defining the overall ABS Policy/Strategy. They were further explained that the objective of the exercise was to reflect on the various stakeholders, who they were, who will play a key role in the development and further implementation of a communication in support of the development of a national ABS strategy.

◆ Reflection on Lessons Learnt

After presenting their results, each group was asked on their first impressions about the process of the exercise and the use of the first communication tool. These were as follows:

- The group work enabled to identify more stakeholders than if the exercise was done individually
- The importance of inputs given by outsiders of the system as they pointed out other routes. This means that you may start the mapping with your colleagues and then complement with external people.
- The importance of listening to others, ask questions and get new ideas.

2.2. "But Who are the Stakeholders?": Four Field Analysis

◆ Group Exercise n°2

For the next step, each group was asked to pick one of the stakeholders (or a group of stakeholders) they identified during the mapping exercise, analyse it and develop a strategic communication approach for this specific stakeholder (or group of stakeholders). Each group was advised to rather select one stakeholder (or group of stakeholders) that was important or difficult to approach. They were then asked to build hypotheses about the stakeholder (or group of stakeholders) they selected using the four field analysis method that is described below and provide some guidance or conclusions to serve the communication strategy to be developed for this specific stakeholder (or group of stakeholders).

- 1) Interest: What are their motives, hopes and needs? What are their concerns? What are their interests regarding ABS processes?
- 2) Relations: What is the nature of their external relationships? What are their dependencies and obligations? What is the history of their relations?
- 3) Organisation: What are their processes and culture? What about their decision making and planning process? Are they egalitarian, consultative or autocratic?
- 4) Perception: What do they think of themselves? How do others perceive them? And how do they perceive us?

◆ Reflection on Lessons Learnt

Each group presented on their work and reported on their first impressions of the exercise. The main observations were that:

- This tool was useful to learn how to communicate in a more appropriate manner with the diverse stakeholders.
- The results illustrated participants' own perspective of one stakeholder which pointed out the need to clarify the angle taken for real communication.

End of Day Five

Day Six

Communication, Education and Public Awareness for Access and Benefit Sharing – Part Two

1. Focus on Fields of Action “Policy/Strategy” and “Stakeholder Engagement” (Cont.)

Ms Heidbrink welcomed the participants to the last session of the workshop and summarised the results of the exercises done the previous day. She then presented the next exercise.

1.1. “Define Your Objectives”: Determining Communication Goals

◆ Group Exercise and Tool n°3

For the third exercise, each group was instructed to formulate their communication objectives for the selected stakeholder (or group of stakeholders) they had analysed the previous day. To do so, groups were advised to ask themselves what were the changes they wanted to achieve with this specific actor? What did they want him/her/ them to do?

1.2. “Adapt the Communication to the Needs of your Partners”: Identifying Messages and Means

◆ Group Exercise and Tool n°4

For the fourth and last exercise, while still considering the communication objectives they stipulated for the stakeholder (or group of stakeholders) they analysed, each group was asked to:

- Formulate three key messages they wanted to communicate to him/her/them; and
- Identify means or forms of communication that they could use to convey that message.

Groups were indicated that they should not use a slogan as a means of communication but formulate very clear, concise and simple messages. Few means of communication were also suggested such as:

- The use of native languages;
- The use of the radio to support messages and raise awareness (particularly relevant in Africa);
- The use of press conferences or conferences/workshops on one topic;
- The use of theatre to keep the message alive (especially regarding some stakeholder groups such as local communities); and
- The use opinions or views of incredible experts.

1.3. Reflection on Lessons Learnt

After providing a brief overview of the outcomes of their work, each group reported back on the practicality of the two last exercises, on the different approaches and communication tools they were exposed to the past two days. Their overall impressions were as follows:

- Communication objectives were relatively easy to formulate. The real challenge was to elaborate effective messages.
- The communication approaches were easy to understand and very useful but need practice to be more efficient.
- All exercises/tools emphasised the importance to know and focus on one single audience, whether individuals or group of stakeholders, at a time.
- The exercises taught to turn the perceptions one may have, good or bad, into understanding stakeholders and, by doing so, opening some opportunities for partnerships.

1.4. Conclusion

Ms Heidbrink recapped each phase of the overall exercise and drew participants' attention on the fact that all these approaches had pointed out the need for financial support. She then provided suggestions to reduce communication costs such as:

- Once the stakeholder analysis is done, identify who are the gatekeeper and multiplier for prioritisation.
- Start somewhere and be fully engaged.
- Get allies in your closer environment and approach some stakeholders who will not use too much of your resources.
- Look where the best relation between the impact and costs involved is.
- Do not look at some stakeholders as enemies but look at the communalities and interests that will enable to work with them to find solutions.

Ms Heidbrink informed the participants that the ABS Initiative was in the process of creating a communication supporting tool. She indicated that they could also consult the the Communication, Education and Public awareness or CEPA toolkit published by the CBD and use the collection of tools proposed to help them design a communication strategy. Ms Heidbrink concluded by hoping that some of these communication tools will be useful for all the participants in their further endeavours around ABS issues.

2. Evaluation

3. Thanks and Closure

Dr Peter Woeste, Ambassador of the Federal Republic of Germany in Malawi thanked the participants for their hard work and fruitful discussions on the various strategies and approaches for a successful implementation of the NP in their respective countries. Referring to participants' work on strategic communication for ABS implementation during the last morning session of the workshop, Dr Woeste underlined the importance of finding these simple and easy words to get the ABS message across. He highlighted that the NP was not only a great achievement but also a great success and that such a success was measured by 60 signatories which, he hoped, despite how challenging it might be, will be soon turned into 50 instruments of ratification. He concluded by commending the ABS Initiative for organising such a timely workshop.

Mpeta Mwanyongo from the Environmental Affairs of Malawi stated that this workshop had given the participants quite a lot of information for the way forward in implementing the NP and added some useful information to their existing knowledge. He then thanked the ABS Initiative for organising such a workshop and wished the best to all.

Dr Andreas Drews from the ABS Initiative thanked all the participants for taking part in this workshop on the challenges of implementing the NP on ABS. He went on to say that at the beginning of the workshop, participants were asked for their expectations and that these appeared to be very diverse. Dr Drew stated that the focus had changed from the negotiations to the broad areas of implementation. He reported that the variety of answers showed that the workshop framework might have to be revised to focus on specific issues and deliver concrete recommendations as opposed to broad capacity building support. He then thanked the local partners for all their support in organising the workshop and the ABS Team. Dr Drew closed the Fourth ABS Workshop for Eastern and Southern Africa by again thanking the participants for their lively and productive discussions and highlighted how much the ABS Initiative always learns from them.

End of the Workshop