

Webinar Series on  
Options to Implement ABS

# Webinar No. 4: Special considerations and relevant permits

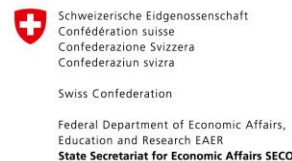


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MS Teams, 25.06.2020

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Webinar 1.3

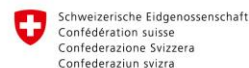
# „Choice of suitable legal instruments“

## Some announcements

Peter Schauerte, ABS Capacity Development Initiative  
Webinar Series 1 “Options to implement ABS”

MS Teams, 04.06.2020

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# Reporting



- **Only** the first presentation of this webinar, "Introduction - setting the scene", will be recorded and published
- Discussions and country presentations (voices of participants) **will not** be made publicly available
- An anonymized summary of discussions will be made available to participants

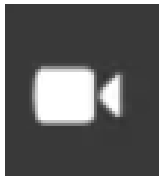
# Tips for a great webinar experience



- Please mute your microphones and turn off your cameras
- Oral inputs only during Q/A after the presentations



- If you want to ask a question or have a comment, please raise your virtual hand or type your question in the chat



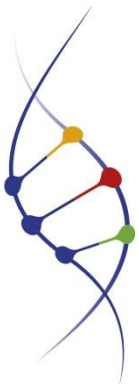
- If the moderator gives you the floor, please un-mute your mic, turn on your camera and ask a precise question / give comment

# Background



- COVID-19 > postponement of national and regional activities
- Four clusters of remote support
  1. **Mapping and fostering the implementation of the Nagoya Protocol in Africa**
  2. Knowledge generation on Mutually Agreed Terms (MAT) and benefit sharing
  3. Contribution of ABS to conservation and sustainable use
  4. Outreach and capacity development on Digital Sequence information (DSI) in Africa

# Cluster 1: Webinar series on „Options to implement ABS“



- Four webinars:
  1. Introduction and overall options to implement ABS
  2. How to get started
  3. Choice of the suitable legal instruments
  4. **Technical issues:  
Special considerations and relevant permits**

# Nagoya Protocol Article 8: Special Considerations

“... each Party shall:”

- (a) ...promote and encourage research which contributes to ... conservation and sustainable use ... including through simplified measures on access for non-commercial research ... taking into account the need to address a change of intent;
- (b) Pay due regard to ... emergencies that threaten ... human, animal or plant **health**... the need for expeditious access ... and expeditious fair and equitable sharing of benefits ... including access to affordable treatments...
- (c) Consider the importance of genetic resources for food and agriculture and their special role for **food security**.

# Importance of Article 8

- Research, health, agriculture/food sectors are biggest users of GR; High relevance for SDG achievement
- Strong “communities of practice” (also in Africa) with established procedures for sharing GR
- Strong political lobbies for special treatment (see also NP Article 4)
- Common global interests and/or worldwide mutual interdependence
- Existing specialised ABS systems (ITPGRFA MLS, WHO PIPF, breeding stock trade...) and emerging ones (FAO CGRFA *Elements*, WHO seasonal influenza/pathogens, various AU initiatives)



# Implementing Article 8

- *AU Guidelines* generally recognize and support the importance of giving (nationally flexible) special consideration to the sectors as per Article 8 of the NP
- Health, agriculture and research issues fall under and are (also) regulated by other ministries/institutions
- National researchers and their international collaboration networks are important stakeholders
- There are usually established permitting or equivalent regulatory procedures in these sectors (further discussed in Permitting session below)

# Change of intent, unpermitted use

- One of the biggest issues encountered in developing the *AU Guidelines*
- Only solution, legally, is to put enforceable consequences, sanctions and penalties into MAT
- Not sufficient ( and of little use)- from an enforcement point of view- to state what is not allowed if consequences of breach are not specified
- Vast majority of users will not violate provisions – but might consider taking advantage of a legal vacuum if no conditions and corresponding consequences for their breach are specified

# The DSI/GSD complication

- Resources accessed under Special Considerations will almost certainly be sequenced
- Under current rules genetic sequences are published in open-access databases and can be used for any purpose with no benefit sharing obligations
- Major databases holding DSI are unwilling to impose any conditions on data access, and unwilling to accept uploads of data with conditions attached.
- Commercial use of DSI/GSD without benefit sharing undermines implementation of NP Article 8
- To be addressed in future webinar series



**Questions or comments?**

# Relevant Permit Systems

- “Special Considerations” sub-sectors already have some permitting systems or similar procedures e.g.:
  - Standard Material Transfer Agreement (SMTA) of the MLS under the ITPGRFA (under revision)
  - 2 x SMTAs of the WHO PIPF
  - Taxonomic specimen exchange between ex situ collections
  - Sales contracts for registered livestock (and semen/ova)
  - Export permits for veterinary or medical samples
  - Phytosanitary and food safety samples
- Many countries regulate research, regardless of sector

# “Peripheral” permits and practices

- Users with ABS permits often also must get additional permits from different authorities:
  - Permits to enter protected areas
  - Permits to collect physical samples
  - Permits to conduct or collaborate in research
  - Permits to survey traditional knowledge holders
  - Permits to export commodities or samples
- Some permits might be a preconditions to obtain other permits
- This can cause delays or confusion; potential loophole
- Need to raise awareness of users, permit authorities, law enforcement, customs

# Streamlining permits and practices

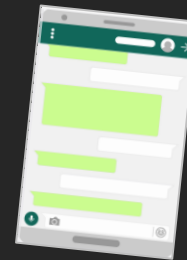
- Need national stocktaking of permits and practices
- How are genetic resources currently exchanged for research/health/agriculture?
- Affects ABS implementation options and choices – many parallel processes? One-stop-shop (idea on online permitting systems? )
- Consultations between government departments and other national authorities – change laws (difficult) or coordinate? Exemptions?
- Another example of need to manage national multi-stakeholder processes.



**Questions or comments?**

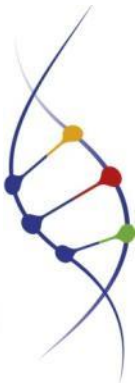


# Petite pause / Short break



On continue en / We'll continue in **5:00** minutes

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Special considerations  
and relevant permits**



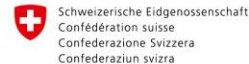
# Virtual Panel Discussion

experiences from:

- South Africa
- Kenya
- other participants

MS Teams, 25.06.2020

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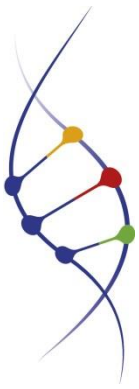


# Next steps

- Follow-up on questions that could not be answered today
- Reporting
- Invitations for the next webinar:

## **30. July 2020 , Tentative topics:**

- Roadmap to COP 15 in Kunming
- Relevant topics and Meetings for Africa, AGN
- Possible Support by ABS Initiative, AUC, others
- Topics to address in future webinars
- How to improve webinars



# Subscription to the ABS News Digest of the ABS Initiative



Information on recent developments and publications related to ABS

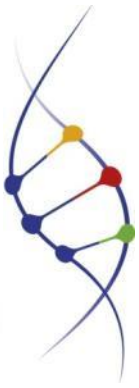
To subscribe please go to :

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The screenshot shows the top navigation bar of the ABS Initiative website. It includes social media icons for Twitter and YouTube on the left, and navigation links for CONTACT, NEWS DIGEST (highlighted with a red circle), and SEARCH on the right. Below the navigation bar is the main header area, which features the ABS Initiative logo in both English ('THE ABS CAPACITY DEVELOPMENT INITIATIVE') and French ('L'INITIATIVE DE RENFORCEMENT DES CAPACITES POUR L'APA'), accompanied by a DNA double helix graphic. At the bottom of the screenshot, a partial view of the website content is visible, showing a menu item 'ABOUT US' and a section titled 'ABS - SIMPLY EXPLAINED' with a sun icon.

# Thank you for your attention!

Hear you the latest during the next webinar  
„Technical issues“ and until then, please....



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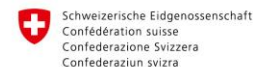
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