

Programme Document 2009 - 2011

A multi-donor initiative spanning nature conservation, poverty alleviation and governance

I. ABS – an acronym becomes established as a topic of politics

The topic of “access to genetic resources and benefit-sharing” was first brought to the global negotiating table in 1992 during the Earth Summit in Rio. This is where the Convention on Biological Diversity (CBD, Biodiversity Convention) was opened for signature. The CBD’s three objectives are

- the conservation of biological diversity,
- its sustainable use, and
- the fair and equitable sharing of the benefits arising from the utilization of genetic resources (ABS).

The latter aspect was included at the insistence of the developing countries, where approximately 80% of the global genetic resources are found. The objective was to establish a mechanism that puts the developing countries in a position to market “their” genetic resources profitably in future – and to create through **ABS** an **economic incentive for the sustainable use** of local biodiversity in the South. Hence, an operational link between the CBD goals was established.

ABS issues are discussed primarily at expert’s level – at occasions including the sessions of the Conference of the Parties (COP), CBD working groups and workshops in industrialised and developing countries focussing mainly on bioprospecting, marketing and biopiracy. So far the potential for ABS mechanisms to contribute to **poverty alleviation**¹ has rarely been utilised – partly because the only guidelines for a functioning mechanism – the **Bonn Guidelines** – do only have a voluntary character. As such there is no regulatory framework on which indigenous and local communities in rural areas – where poverty is mostly found – can base claims for their fair and equitable share of benefits arising from the utilization of genetic resources – be it from national governments or from the private sector.

Only since **WSSD 2002**, the World Summit on Sustainable Development in Johannesburg, the ABS process gathered new momentum – when political leaders requested an international regime that ensures and safeguards the implementation of the third objective of the CBD. The last (9th) CBD COP in Bonn, Germany in 2008 established a clear roadmap for the negotiation of the **international ABS regime**, which must be **concluded by 2010**.

Functioning ABS regulations at national, regional and international level are essential if ABS mechanisms are to have a positive impact on sustainable development, poverty alleviation and biodiversity conservation. Such regulations need to consider and to be linked to provisions on land and property rights, access to resources, national and international market mechanisms, profit sharing and technology transfer, capacity building as well as the recognition of traditional knowledge and intellectual property including disclosure obligations in the user countries of genetic resources, in particular to the work under the International Treaty for Plant Genetic Resources for Food and Agriculture (ITPGR-FA), the work on traditional knowledge and intellectual property rights under the World Intellectual Property Organisation (WIPO) and the World Trade Organisation (WTO). Governments need to establish a **broad participatory process** to ensure stakeholder support and to raise awareness on these issues and their interlinkages.

¹ Henne, G., Liebig, K., Drews, A. & Plän, T., 2003. Access and Benefit-Sharing (ABS): An instrument for poverty alleviation. Proposals for an International ABS Regime. German Development Institute (GDI), Bonn.

II. Focus on Africa: the ABS Capacity Development Initiative

Building on these insights, the Directorate-General for International Cooperation (DGIS) of the Netherlands Ministry of Foreign Affairs and the *Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH*, the latter acting on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ) have joined forces since 2005 to build human and institutional capacity in developing countries to deal with the complex ABS issues. Priority region is **Africa** because by international comparison this is where the **need for capacity development** is greatest. In relation to ABS, Africa can be characterized as follows: there is a lack of awareness of the potential of ABS at the political level; barely any functioning national ABS regulation is in place; there are problems implementing existing regulations; awareness and exchange among the relevant stakeholder groups (government, academe, indigenous and local communities and private sector) is minimal; regional harmonisation hardly exists; inventories and information on the value of genetic resources are not available; negotiation skills are not developed. This of course also influences directly the capacity of the African Group (53 countries) to negotiate the international ABS regime.

It is essential that capacity development starts **before** the actual conclusion of an International Regime (IR) on ABS in 2010. This will enable the African countries to identify suitable ABS strategies while negotiating and developing the International Regime. Hence African countries will be – immediately after the IR has been agreed upon – fully equipped to translate the international regime into national legislation while complementing it with additional necessary aspects

Guided by the **elevator principle** the ABS Capacity Development Initiative successfully targets its objectives by linking the local level with UN negotiations using regional and sub-regional activities as kick-off platforms. Until 2008 the Initiative established three **sub-regional platforms** taking into account different levels of ABS implementation, language barriers and legal systems: (1) Eastern and Southern Africa, (2) Central Africa, and (3) West Africa, Maghreb and Indian Ocean Islands. The Central African part of the Initiative draws on the financial contributions of the *Agence Française du Développement* and BMZ to the COMIFAC (Central African Forest Commission) convergence plan for biodiversity relevant policy and legislation for the 10 COMIFAC countries. The punctual co-funding support of the Government of Québec and the *Institut de l'Énergie et de l'Environnement de la Francophonie* (IEPF) for the French

The elevator principle for ABS capacity development through the Initiative

Level of intervention	Preparation national ABS authority	Other stakeholders	Main instruments used at different levels
UN level	Negotiation International Regime	ABS authorities of other countries	<ul style="list-style-type: none"> ⑧ African inputs on ABS to relevant meetings ⑥ Technical papers and studies ⑦ CEPA for ABS
(sub-) regional level in	Harmonization of legislation Regional cooperation	ABS authorities of other countries Academia Private sector Communities	<ul style="list-style-type: none"> ① Multi-stakeholder WS ⑤ Information exchange/CHM ② Issue-based Trainings ⑥ Technical papers/studies ④ Best practices with private sector ⑦ CEPA for ABS
National level	Laws and regulations	Academia Private sector Communities	<ul style="list-style-type: none"> ④ Best practices with Private Sector ③ Peer-to-peer knowledge exchange ⑦ CEPA for ABS
Local level	Implementation and monitoring	Academia Private sector Communities	<ul style="list-style-type: none"> ④ Best practices with private sector ③ Peer-to-peer knowledge exchange ⑦ CEPA for ABS

① Multi-stakeholder workshops; ② Issue or stakeholder-focused trainings; ③ Peer-to-peer knowledge exchange; ④ ABS best practices with private sector; ⑤ Information exchange and knowledge management; ⑥ Technical pa-

pers and studies; ⑦ Communication Education and Public Awareness (CEPA); ⑧ African inputs on ABS to relevant CBD meetings – for further explanation of the instruments see chapter IV

speaking Africa resulted in a long-term co-funding commitment of IEPF beginning in 2008. The cooperation with IEPF is seen as a first step developing the Dutch-German partnership into a **multi-donor initiative** for a concerted ABS Capacity Development within Africa as an entire region. Thus following the spirit and the requirements of the **Paris Declaration** the Initiative with its joint Steering Committee (see page 5) will contribute to an improved donor harmonization and aid effectiveness - better valorising the potentials for poverty alleviation at the interface of natural resources management, trade and governance.

For technical backstopping the **Secretariat of the CBD (SCBD)** will continue its support to the initiative through active participation and providing expertise, based on a formal *Memorandum of Understanding* since 2007. The **United Nations Environment Programme (UNEP)** offered to host from 2009 onwards a number of workshops and provide technical and outreach support to the Initiative. The Initiative and the **United Nations Institute for Training and Research (UNITAR)** entered into a partnership to prepare African negotiators more effectively for the upcoming ABS negotiations using the successful approach of UNITAR during the climate negotiations. UNITAR's contribution is funded by the Swiss Government.

The Initiative receives **broad international recognition** for its significant impacts on the preparedness of the African Group in the international ABS negotiations. The spokesperson of the African Group requested during the closing plenary of COP 9 in Bonn to continue and intensify the support provided by the Initiative to further prepare Africa for the implementation of a future international regime. Therefore it is crucial that the **Initiative continues its work** towards the established objectives using the successful approaches and instruments as mandated.

III. Objective, process and outcomes

In a tailor-made manner to the **African needs**, the ABS Capacity Development Initiative for Africa continues to implement the *CBD Action Plan on Capacity-Building for Access to Genetic Resources and Benefit-Sharing*, which COP 7 adopted in 2004. But this is not only seen as a procedure serving CBD obligations, **the overall goal of the Initiative** is much more to develop in the long run (the vision of) ABS as a powerful instrument to contribute to **poverty reduction** in Africa **while conserving biodiversity**.

By **increasing the capacities** of African stakeholders to actively and substantively **participate in the ongoing negotiations** of the international ABS regime and to **implement ABS at the national level** the Initiative impacts in the long-term positively on food security, good governance and the broader MDG framework (especially on goals 1, 3, 7 and 8) via the fair and equitable sharing of benefits generated from the use of biological/genetic resources. The **involvement of the private sector** is considered as a **key success factor** for effective and adjusted capacity development as ABS finally aims at the fair commercial valorisation of genetic resources based on a mutual understanding of interests between "providers" and "users". For this reason **open exchange and confidence building** with representatives from **food, cosmetic and pharmaceutical enterprises** has been of major importance so far - serving as a sound basis for intensified partnerships with the private sector in the new phase of the initiative. (see elevator scheme p.2)

Supporting Africa in these key strategic processes the Initiative will contribute significantly to attaining to the overall goal with the following **outcomes**²:

1. **ABS is on the agenda of African, national, sub-regional and international policy**
2. **African positions are reflected in the international ABS regime**
3. **African countries develop national ABS regulations**
4. **African stakeholders enter into equitable ABS partnerships with the private sector**

² for indicators and means of verification see Annex 1

IV. Approaches and Instruments

In order to achieve the intended outcomes it is imperative to **increase awareness** of African policy makers and legislators on ABS matters, foster **dialogue** and **meaningful participation of all relevant stakeholders** at all stages of the negotiation, development and implementation of ABS regulations – at the international, national and local level -, improve **regional cooperation** on ABS issues among African countries, and stimulate and moderate **exchange with the national and international private sector**.

The following instruments will allow for an effective implementation of the Initiative:

<p>❶ Multi-stakeholder workshops to discuss emerging ABS issues and to define priorities for capacity development in a participatory manner;</p>
<p><i>Activities: Design and organise - in close cooperation with African counterparts - a platform to initiate and facilitate the exchange among and between stakeholders on the following issues: bioprospecting cases, updates on legislation/regulations, compliance across jurisdictions, intellectual property rights and alternative approaches of genetic resources ownership, realisation of Farmers' Rights, role of civil society in shaping and implementing ABS and Farmers' Rights, etc.</i></p>
<p>❷ Thematic and/or stakeholder-focused training courses based on needs;</p>
<p><i>Activities: Assess the needs, design and organise regional tailor-shaped trainings on negotiation skills, legal issues, outreach and media approaches, monitoring, project planning and design, etc.</i></p>
<p>❸ Peer-to-peer knowledge transfer at national and local level between African countries, as well as globally, e.g. between private-sector and governmental decision-makers</p>
<p><i>Activities: Identify and "broker" between appropriate institutions/organizations and individuals as ABS knowledge providers and recipients; facilitate local-local learning exchange, govt.-govt. on-the-job exchange, etc.</i></p>
<p>❹ ABS best practices with the private sector, including lessons learned in order to identify additional participants and potential investors;</p>
<p><i>Activities: Initiate and support the design of and facilitate fair and equitable ABS show case projects in cooperation with the private sector (North-South PPP). This includes approaching and sensitizing enterprises dealing with biological/genetic resources to engage in such partnerships.</i></p>
<p>❺ Information exchange and knowledge management within the different stakeholder groups at national level and on a pan-African and global basis;</p>
<p><i>Activities: Develop a (virtual) African knowledge base, shaped according to regional conditions including a documentation of bioprospecting cases, updates on policies, legislation and regulations as well as a literature database.</i></p>
<p>❻ Technical papers and studies in order to set priorities, stimulate substantive discussion and give support for decision making;</p>
<p><i>Activities: Identify, commission and backstop analyses and approaches for implementing current and future elements of the international regime in the African context, including options for regional harmonization.</i></p>
<p>❼ Communication, Education and Public Awareness (CEPA) for ABS;</p>
<p><i>Activities: Identify, commission and backstop the development of tools and outreach material for communicating ABS to policy makers and the general public; develop university courses on ABS and to integrate ABS in relevant university curricula.</i></p>
<p>❽ Active participation of and/or substantial inputs by African representatives to important ABS meetings at UN level;</p>
<p><i>Activities: Provide methodological guidance and thematic input to the international negotiation process through regional preparatory meetings and delegates briefings including through side events and Inf.-docs.</i></p>

The above mentioned activities are carried out based on needs assessments and experiences generated during the first phase of implementation of the Initiative (see Annex 1 for a more detailed overview).

V. Governance and Organizational Structure of the Initiative

In the light of transferring the initially bi-lateral initiative into a multi-donor initiative the following structural arrangement were developed for the programme phase starting 2009:

Membership is open to all institutions and organisations, which commit to contribute significantly to the budget of the Initiative. In order to minimise administration overheads and to ensure flexible decision making the number of member to the Initiative should be limited. Hence long-term commitments of at least 500.000 € are requested.

Members are invited to the annual meetings of the Steering Committee. Members endorse the goals and objectives of the Initiative.

Co-operations are being established with other donors/donor institutions and international organisations active on relevant issues in Africa with a clear vision for complementarities and synergies in ABS capacity development; e.g with UNEP and UNITAR (ongoing, see page 3) and others such as UNCTAD-BTFP, UNDP, UNU-IAS, WIPO, FAO, IPGRI, IUCN, WWF, etc.

The **Steering Committee** (SC) consists of one designated person per member, three appointed African stakeholder representatives (government, indigenous and local communities, academia), the ABS Program Officer of the SCBD, and the Co-ordinator of the Initiative. The SC meets annually back-to-back with the Africa-wide ABS Capacity Development Workshop during the last quarter of each year. Decisions of the SC are made by consensus. The responsibilities of the Steering Committee shall include the following:

- to provide guidance to the Secretariat of the ABS-Initiative;
- to review the implementation of the Initiative and assess its impact;
- to help raise additional resources;

The **Secretariat** is the central management unit of the Initiative, and serves as the focal point for relations with its members and partners. The Secretariat's work focuses mainly on the implementation of the Initiative and on ensuring financial and institutional stability. It will also actively explore strategic partnerships to complement the work of the Initiative. The Secretariat is managed by the GTZ and reports to the SC. The Secretariat operates within the annual work program and budget lines as agreed by the SC each calendar year, and takes all relevant decisions to move activities forward within the agreed budget line (hiring consultants, commissioning studies, travel to meetings, and support to resource persons). In the case of new activities that involve a financial commitment of the Initiative, the Secretariat shall advise the SC on the purpose and scope of the activity for the decision of the SC on further action.

Key responsibilities of the Secretariat include:

- Implementation and Supervision of Activities
 - to implement the agreed work programme and monitor the implementation of partners' activities;
 - to screen and evaluate incoming project proposals as a basis for informed decision-making in the Steering Committee;
 - to prepare ToRs for technical papers and studies, to identify and supervise international consultants, to ensure quality products and outputs;

- **Communication & Network Management**
 - to establish and maintain effective communication with members, partners and the general public;
 - to maintain, update and further develop the ABS Africa website (www.abs-africa.info) as the central communication and information sharing platform of the Initiative;
 - to organize and manage all aspects, both substance and logistics, of SC meetings including storing and sharing of documents such as minutes of SC meetings, work programmes and the budget via a password protected member space on the ABS Africa website.
- **Financial Management**
 - to manage the ABS Initiative Trust Fund, including the drafting of the annual work program and budget, and the administration of funds;
 - to manage all eligible expenditures that are directly related to the fulfilment of the Initiatives mission and activities.
- **Reporting and Auditing**
 - to prepare for all members of the Initiative an annual report on all activities and summary financial statements, no later than six months following the end of the calendar year;
 - as fund administrator, to provide members with a management statement on an annual basis, together with a certification from its internal auditors, of satisfactory performance in complying with the procedures and controls in administering the ABS Initiative Trust Fund;
 - to arrange for external financial audits of activities of the Initiative at the request of the SC, and/or individual donors with respect to their contributions;

The **ABS Initiative Trust Fund** includes core-funding and financial contributions with donor restrictions relating to themes, activities or sub-regional programs. All funding allocations for activities and programs of the Initiative shall be managed by the Secretariat in accordance with the work programme endorsed by the SC. If funds are transferred to the Initiative, the contributor shall enter into a financing agreement with the institution providing the Secretariat of the Initiative.

Parallel Funds support the objectives of the Initiative. Partners engaged in parallel activities with the purpose of supporting objectives of the Initiative will commit to implementing the mission and objectives shared by all members of the Initiative.

Contributions in kind (eg. in the form of provision of in-house consultancy services to fulfil activities of the work programme) shall be recognized by the SC but shall not necessarily be accepted as creating eligibility for full membership

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Outcome	Indicator	Means of verification
1. ABS is on the agenda of African, national, sub-regional and international policy	1.1. A common African ABS position is formulated	Submission(s) of the African Group included in the official negotiation documents; Decisions of relevant ministerial meetings;
	1.2. At least one African sub-regional organization develop ABS related policy recommendations	Policy documents
	1.3. Stakeholder views are reflected in the African position and ABS related policies	Interviews with stakeholder representatives (e.g. ILC, private sector, academia, negotiators, legislators)
	1.4. High African level decision makers (Ministers, Sec. of State, etc.) are acquainted with the topic and supporting the development of national and international ABS schemes	Declarations / reports of Ministerial meetings; Interviews
2. African positions are as much as possible reflected in the international ABS regime	2.1. African negotiators participate substantively in the international ABS negotiations	Attendance in preparatory meetings and negotiations; Interviews with negotiators
	2.2. African policy makers are supporting the African position(s) in the High Level Sections of negotiations / elsewhere	Statements and reports
3. African countries develop ABS regulations at the national level	3.1. At least 15 countries have ABS related draft policies formulated	Published policy
	3.2. At least 10 countries have ABS regulations enacted	Gazetted ABS regulations
	3.3. At least 5 countries implement ABS regulations	Commercial and non-commercial bioprospecting agreements under negotiation and/or signed
4. African stakeholders enter into equitable ABS partnerships with the private sector	4.1. Resource providers receive monetary and/or non-monetary benefits	Commercial and non-commercial bioprospecting agreements
	4.2. Dialogue processes at the national sub-regional and international level are taking place	Workshop reports; joint recommendations