

Third Pan-African ABS Capacity Development

Workshop

Antsiranana, Madagascar, 23 – 28 Nov. 2008

REPORT

Sunday - November 23, 2008

Guided tour to the city, the Bay of Diégo Suarez to Ramena – organized by the region

Opening Ceremony at the Grand Hotel, Diégo

Film "The TEFF Cereal" - An Ethiopian-Dutch Bioprospecting Case, introduced by Suhel al-Janabi, ABS Africa Initiative, Germany

Cocktail - Grand Hôtel hosted by the Government of Madagascar and the DIANA Region

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71 K

Monday - November 24, 2008

Setting the Scene

Introduction by Dr. Andreas Drews, ABS Africa Initiative, Germany

Update from the sub-regions

Central African Forests Commission (COMIFAC)

Rufin Antoine Oko, Groupe de Travail Biodiversité d'Afrique Central (GTBAC), Gabon

Western Africa, Maghreb and the Indian Ocean Islands

Samuel Diemé, Direction des Parcs Nationaux, Senegal

Looking back: WGABS 5 & 6

Elements of the International Regime “Bricks and Bullets”, presented by Valérie Normand, SCBD

Discussion: Key Points

- The most important elements of the International Regime are still bullets and we need to convert them into bricks without which we will not have an ABS house.
- The findings of the studies commissioned by the SCBD as per COP decision ix/12 will be ready before the second AHTEG meeting on Compliance in January in Tokyo and these studies will inform the AHTEG discussions.

ABS news from COP 9

Take-off with Concepts, Compliance, Traditional Knowledge: “Importance and Challenges”, presented by Timothy Hodges, Co-chair of the Working Group on ABS

Discussion: Key Points

- We don't have enough national ABS legislations even though it builds a stronger case for the International Regime at the international negotiations. We need more clarity on a variety of

issues in the potential International Regime and this can only come from national experiences based on implementing national ABS legislations.

- The IRABS is a grand bargain that has been struck between the North and the South, negotiators however don't think in terms of the bargain, they enter negotiations based on what they can get out of it.
- There are great expectations internationally from the African negotiators as they have emerged as the best organised bloc.
- ABS is also primarily a political issue and through communication, education and public awareness (CEPA), we need to get ministers and political decision makers involved.
- The key questions for the IRABS are:
 1. What are the objectives of the IR (narrow or broad)?
 2. Does the IRABS incorporate other treaties and for a?
 3. Should the IRABS embrace both mandatory and voluntary measures?
 4. Are sectoral approaches tenable?
 5. Should compliance be the focus of the IRABS?
 6. What about *capacity building* - what, for whom and when?
 7. Is ABS ultimately about capacity needs and associated access costs?

Bioprospection between ABS and CITES

Introduction to CITES, presented by Vololona Rakotondrabanja – CITES NFP Madagascar

Discussion: Key Points

- We have had some arrests in Madagascar based on our CITES compliance laws. On the 4th of November 08, we arrested a student leaving the airport with CITES specimens and the decision of the court will be in December.
- CITES extends only to a very small subset of what is covered under ABS. CITES compliance structures will not be able to monitor the movement of GR covered by ABS. We need downstream checkpoints like patent offices etc. for ABS. However in cases such as the Hoodia there are overlaps between CITES and ABS.

Hoodia gordonii in Southern Africa

Hoodia gordonii in Southern Africa, presented by Robby Gass, Southern African Hoodia Growers Associations (SAHGA), South Africa

SAHGA was started 3 years ago to limit the over-harvesting of wild Hoodia and to share the benefits of the trade in Hoodia with the San. It attempted to include the Namibian hoodia growers and grew from South African growers to Southern African growers. We pay a certain percentage to the San for every kg of Hoodia sold.

SA has the Biodiversity Act of 2004 and the Bioprospecting and Access and Benefit Sharing Regulations of 2008. The Regulations implement the Act. The Minister is empowered to issue a bio prospecting permit if s/he is satisfied that the relevant stakeholders have been identified and a benefit sharing agreement has been signed by all parties. All the monies will be paid into a Bioprospecting Trust Fund. We have a 6 month transition period and all existing ABS agreements would need to be aligned to the new Regulations. The San-CSIR and San- SAHGA agreements have been submitted for approval.

Meryl Joy Schippers, South African San Institute (SASI), South Africa

SASI has 2 core programs- a San legal rights program and a cultural affirmation program. Both these programs were crucial for the San Hoodia agreement to come into being. The Hoodia being a transborder resource and the TK related to the Hoodia being shared by the different San communities across Southern Africa, the Hoodia Trust was formed with the representation of the San from SA,

Namibia and Botswana (and in the future possibly Zambia, Zimbabwe and Angola) so as to equally share the benefits of the Hoodia agreement.

Discussion: Key Points

- Now that Unilever no longer has interest in developing a Hoodia product for the market it is crucial that the San and SAHGA to develop ways to market the Hoodia. Unilever however is prevented by its agreement with CSIR from synthetically producing P57.
- An important concern regarding the Hoodia is that it is a transborder resource and the TK associated with it is shared between ethnically different ILCs who are spread across national boundaries. For e.g. the Nama in Namibia also possess the Hoodia TK that the San have. It was therefore premature for the San in SA to call themselves primary knowledge holders and exclude the Nama from the benefits.
- There are no San in SAHGA but there is San representation on the board of SAHGA. This implies that there are no San who are benefiting from the knowhow developed by SAHGA from the commercial cultivation of Hoodia.

Prunus africana in Central Africa and Madagascar

Presentations from
Augustine Njamnshi, The Access Initiative (TAI), Cameroon
Private Sector Madagascar Nirina Rakotojana Andrianasolo
Vololona Rakotondrabanja, CITES NFP, Madagascar

Discussion: Key Points





- In Madagascar the villagers have been trained in the sustainable harvesting of Prunus bark. Innovex pays their workers 70% more than minimum wage and the local population has a priority in the company hiring policies.
- This is however a bio trade issue and not an ABS one since the local population derives no benefit for the use of their TK. Instead they derive an income from the sale of Prunus bark to the companies.

The Madagascar International Cooperative Biodiversity Group (ICBG)

Introduction to the ICBG-Madagascar bioprospecting programme

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Tuesday - November 25, 2008

Fieldtrip to "Montagne des Français"

Introduction to the bioprospecting methodology of ICBG

Fieldwork

Bioprospecting in small groups

"Benefit Sharing" upfront payments and more?

Visit of village projects supported by ICBG-Madagascar
Service d'Appui à la Gestion de l'Environnement (SAGE)

Data processing methods of ICBG-Madagascar

(GIS, data bases, spécimens), presented by Etienne Rakotobe, Centre National d'Applications et des Recherches Pharmaceutiques (CNARP), Madagascar

ICBG in Madagascar

Additionnel Information, presented by Etienne Rakotobe, Centre National d'Applications et des Recherches Pharmaceutiques (CNARP), Madagascar

Panel Discussion on ICBG Madagascar with

Rakotobe Tovondiaka, Secrétaire Général Ministère de L'Environnement, des Forêts et du Tourisme (MEFT)

Lao Po Toe, Mayor of Mahagaga

Peter Lowry, Missouri Botanical Garden – ICBG USA

Naritiana Rakotoniaina, Service d'Appui a la Gestion de l'Environnement (SAGE) – ABS NFP Madagascar

Laurette Hermine Rasoavahiny, Ministry of Environment, Forest and Tourism (MEFT) – CDB NFP Madagascar

Josette Rahantamalala, Conservation International

Etienne Rakotobe, Centre National d'Applications et des Recherches Pharmaceutiques (CNARP) – ICBG Madagascar

Discussion - Key Points

- The information collected through the ICBG project will be shared between American and Malagasy scientists.
- The ICBG project is divided into 2 parts. The 1st part is identification, research etc. and the 2nd part is direct compensation. Villages from around the bio prospecting areas benefit from the developmental fund and villagers ask for specific development activity. In the case of the village we visited, they asked for market gardens. When it comes to sharing of royalties it takes 15-20 years but in this case we have a developmental budget where 1 goes to the country and the other 1 to the community.
- Part of the research is undertaken in Madagascar and the benefits are shared depending on the % of work put in.

- The other benefits to Madagascar includes training for local scientists.
- In Madagascar as there is currently no ABS legislation we rely on best practice models. We also have a steering committee on environmental research, so the money from research such as the ICBG project comes to this multi-sectoral committee which disburses funds.
- Before we make any collections our field botanists do a survey to see if any of the specimens are on the CITES list or if it is just a single plant and ensure that collecting specimens does not harm the local ecosystem or endanger the plant. It also gives the necessary information to the Ministry of Environment so they can make informed decisions.
- The follow up to the developmental activities undertaken by the ICBG is in the hands of the Madagascar government since the project cannot do everything. We pick projects that are sustainable but also choose projects that do not require long term ICBG involvement.
- It is important to note that the ICBG project beyond the development activities it undertakes also creates capacity in itself through training of local scientists by collaborating with American scientists.
- While development activities with the local villages through market gardening in itself may have nothing to do with bio prospecting it has a direct impact on conservation and poverty alleviation. This is a Malagasy priority. The ICBG project does not deal with every community but focuses on pilot projects that serves as models to other communities.
- Despite the fact that the US is not a signatory to the CBD, the ICBG project is based on best practices based on the CBD and the *Bonn Guidelines*.
- Regarding the creation of protected areas, we use IUCN categories which emphasizes the involvement of local populations to ensure the feasibility of the protected areas. We however need a multicultural approach for poverty alleviation since the Environment Ministry is in itself not tasked with this.

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Wednesday - November 26, 2008

Recalling days 1 & 2

News and features

Feedback on the research questions

General Feedback from the different groups based on their observations from the ICBG field trip:

Group 1- Benefits: It is crucial that local communities that depend on protected areas for their livelihoods are provided with alternative livelihoods that go beyond just market gardening.

Group 2- Role of TK: There was no real provision made in the ICBG project regarding the use of TK of communities whether in terms of local names of the plants or local uses of it.

Group 3- Research: It seemed to the group that most of the research was done in the US and not in Madagascar which raises the question of whether there was any real *capacity building* of the Malagasy scientists. Also there is little clarity on how benefits will be shared with Madagascar if discoveries are made based on Madagascar GR in the US 20 years down the line. There also seems to be little information regarding the number of publications and specifically what has flowed back to the Malagasy scientific community.

Group 4- Stakeholders: The providers are the Govt of Madagascar for land and admin services, the ILCs who provide access to the forest and TK and the private land owners for the pilot project. The intermediaries are CNARP and the National Centre for Environmental and Oceanographic Research and the users are the Missouri Botanical Gardens.

Group 5- Monetary and non-monetary benefits: The non-monetary benefits include livelihoods for local charcoal burners, access to seeds and conservation of the mountain. Regarding whether benefit sharing is fair and equitable, we feel more needs to be done for poverty alleviation, the local population must also have information about the nature of the benefit sharing agreement and the livelihoods generated must be sustainable and we wonder whether this is so in the case of market gardening.

Group 6- Direct and Indirect Impact on Poverty Alleviation: Poverty alleviation was not specifically constructed as the aim of the project and while there was building of schools etc. there was no clear assessment of needs at the beginning of the project. Women who are most affected by poverty and also bearers of TK are not directly involved.

Group 7- Compliance: Unclear since we did not have access to the ICBG contract. However in case of disputes we were informed that first there will be conciliation, then mediation and finally arbitration. Beyond this the Court of Virginia seems to be the forum of choice.

Group 8- PIC: The ICBG project involves a random methodology based on a long term agreement with the Government of Madagascar. It may not be advisable in all cases of ABS.

African perspectives on ‘Concepts’, ‘Compliance’ and ‘Traditional knowledge’

Introduction Timothy Hodges and Pierre du Plessis with working groups in parallel

Tasks of working groups

Discussion - Key Points

- The GTLE are not negotiators but experts who will work towards shedding light on complex issues that have plagued the negotiations towards the IRABS.
- The GTLE on Concepts, Terms, Working Definitions and Sectoral Approaches are tasked with some of the issues that the ABSWG needs clarity on. For e.g. distinctions between GR and BR, commercial and non commercial use etc.
- For Africa the distinction between GR and BR, derivatives and products are important and also some clarity as to how we will track these derivatives and products.
- Sectoral approaches are being pushed for by some negotiators, but there is a lack of clarity as to what these sectors are and how we can fit the different approaches under the IRABS.
- Regarding the GTLE meeting on Compliance, they will work towards providing clarity on terms such as misappropriation and misuse.
- Regarding the GTLE on TK associated with GR, though the WG on 8j has been tasked with looking into TK issues, the ABSWG has to urgently deal with it since it falls under the scope of the IRABS.
- We need a strong and a legally binding regime but we feel that there will need to be a trade off between the regime being strong and legally binding especially if we have a wide regime in mind.
- Regarding compliance, legal certainty is crucial since it leads to predictability and therefore will attract investment.
- We also need a system that will deal with questions such as what will happen if benefits are not shared or if there is misappropriation.
- It is important to also consider access to justice and ask difficult questions such as whether Lesotho would have the capacity to take a multinational like Monsanto to court?
- There is also the issue of checkpoints, certificates, mandatory disclosure of origin, tracking mechanisms and *capacity building*. All these issues need to be addressed seriously.

- TK is probably one of the most difficult issues and raises questions as to what can be done when the TK is transborder or shared between ethnically different communities.

Introduction of the ToR of the Groups of Technical and Legal Experts, presented by Valérie Normand, SCBD




Group work: Comparison with the ToR of the Groups of Technical and Legal Experts (GTLE)

Introduction of the draft submission of the African Group on operational text for the international ABS regime

Member of the drafting group

Group work: Comparison with the draft operational text

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Thursday - November 27, 2008

Recalling Day 3 - A practical guide through the jungle of ABS

The ABS Management Tool, presented by Michael Gullo, Stratos Inc., Canada

Partnerships for ABS and biotrade between local communities and global cosmetic companies, presented by Julien Chupin, Man and the Environment (MATE), Madagascar

Exercise

Discussion and evaluation








ABS and CEPA





Challenges for communicating ABS, presented by Suhel al-Janabi, ABS Africa Initiative, Germany

Questions & discussion

Group work

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Friday - November 28, 2008

Recalling Day 4 - Operational text for the international ABS regime

Discussion: 'Concepts' and 'Compliance'
 Recommendations for an African perspective on 'Concepts' and 'Compliance'

Presentation of the full draft submission of the African Group on operational text for the international ABS regime
 Member of the drafting group

Discussion of the draft text: strengths and weaknesses

From Bonn to Nagoya

Roadmap of the ABS Africa Initiative until 2011

Feedback to the ABS Africa Initiative

Closure of the meeting

"Farewell" Barbecue, Residents of the Region

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