



## **7<sup>th</sup> Pan-African ABS Workshop**

Organised by the

**ABS Capacity Development Initiative**

Hosted by the

**South African Department of Environmental Affairs**

**Regional Workshop**

Phalaborwa, South Africa, February 25<sup>th</sup> – March 1<sup>st</sup>, 2013

# **R E P O R T**

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## Background

Since 2006, the ABS Capacity Development Initiative (ABS Initiative) has convened six Pan-African workshops, as well as numerous training courses and workshops with a regional or issue-based focus, playing a critical role in building capacity on Access and Benefit Sharing (ABS) issues in Africa. This year's workshop is the second of this kind to be hosted by South Africa. The first Pan-African ABS Workshop was held in the city of Cape Town in 2006. Since then, South Africa has remained a fervent participant and supporter of the ABS Initiative.

This seventh edition of the Pan-African ABS Workshop took place after a very productive year committed to address the challenges of an extension of the ABS Initiative's activities to the Caribbean and Pacific regions and to provide continuous support to a coherent, effective and harmonised implementation of the Nagoya Protocol on Access to Genetic Resources and Equitable Sharing of the Benefits Arising from their Utilisation to the Convention on Biological Diversity (Nagoya Protocol).

In support to ABS capacity development in Africa in 2012, the ABS Initiative supported African negotiators for the preparation of the ICNP-2<sup>1</sup> in New Delhi, India and of the COP-11<sup>2</sup> in Hyderabad, India. Further activities included (1) an indigenous and local communities preparatory meeting for COP-11 and a basic training course on links between ABS and intellectual property rights in Bujumbura, Burundi; (2) public, private partnership exchanges in Copenhagen, Denmark and Maputo, Mozambique; and (3) an expert workshop on ABS, forest and protected areas in Eschborn, Germany.

### Objectives of the Workshop

During the 6<sup>th</sup> Pan African Workshop which took place in Limbé, Cameroon in January 2012, participants discussed, based on a gap analysis report on the African Model Law, the possibility of the development of practical guidelines for a more homogenous and unified implementation of the Nagoya Protocol in Africa. Following these discussions, the Department of Human Resources, Science and Technology of the African Union Commission requested the ABS Initiative to support the development of the suggested guidelines now referred to as the African Union Guidelines for a Coordinated Implementation of the Nagoya Protocol in Africa (African Union Guidelines). A draft summary of these guidelines was presented at the workshop and provided the framework for the thematic organisation of the event.

The main objectives of the workshop were therefore to:

- Collect reflections and comments on the draft summary of the African Union Guidelines.

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<sup>1</sup> The Second Meeting of the Open-ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation.

<sup>2</sup> The eleventh meeting of the Conference of the Parties to the Convention on Biological Diversity.

- Present a practical example of national implementation by showcasing a local bioprospecting case, providing additional inputs for further discussion.
- Reflect on the outcomes of the workshop on traditional knowledge that took place in Bengaluru, India in February 2013 and further discuss questions regarding documentation and valorisation of traditional knowledge.
- Examine in further detail through thematic sessions, key practical issues related to ABS implementation, such as the relationship with protected areas, ABS and basic research, compliance, business and ABS, biocultural community protocols, etc.

As in previous years, the main focus of this seventh edition of the Pan-African ABS Workshop was to develop capacity by bringing together ABS National Focal Points, indigenous and local communities, representatives of national competent authorities, non-governmental organisations, research institutions, representatives of the private sector involved in biotrade and bioprospecting and participating donors countries while providing a forum for the exchange of experiences and lessons learnt in different countries.

In addition, the workshop provided an opportunity to discuss the preparatory requirements for a not yet scheduled meeting of an expert group on Article 10 of the Nagoya Protocol and ICNP-3, tentatively scheduled for February 3<sup>rd</sup> - 7<sup>th</sup> 2014. Participants also had an opportunity to discuss the draft European Union regulation for implementing the Nagoya Protocol in an evening side event.

## Outcomes

The success of this workshop was assured by the very enthusiastic participation of more than 130 participants from more than 30 African countries. Participants were first introduced to the draft African Union Guidelines and key milestones of their development process providing an overall framework for further debates in relation to core issues relevant for national implementation of ABS throughout the entire event. Participants hence engaged in fruitful group discussions on various themes that had high relevance to the African Union Guidelines and which resulted in a set of recommendations to assist the revision of the current draft document. Over one full day dedicated to traditional knowledge, ways and means of documenting and/or recording traditional knowledge were discussed. The field visit to the *Lippia javanica* cultivation, distillation and oil-extraction community-based project in Giyani, Limpopo allowed the participants to explore in great detail a successful case of benefit sharing through scientific innovation and traditional knowledge. Over the five days, rich discussions highlighted the importance of an enabling environment for ABS, including an appropriate legislative and/or regulatory framework that will provide legal clarity with respect to ABS issues while ensuring the protection of traditional knowledge.

Based on very constructive exchanges, group reflections and activities, the outcomes of the workshop were as follows:

- An enhanced understanding of the content and usefulness of the African Union Guidelines and the process forward for their finalisation with a view to provide a coordinated and harmonious implementation of the Nagoya Protocol in Africa.
- A better comprehension of the important linkages between ABS and other biodiversity related issues addressed by other international forums, in particular:
  - (1) The interface between the Nagoya Protocol and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) as well as relevant developments under the Commission on Genetic Resources for Food and Agriculture (CGRFA) in relation to the implementation of the Nagoya Protocol;
  - (2) ABS in the context of protected areas, in particular the Programme of Work on Protected Areas (PoWPA) under the Convention on Biological Diversity (CBD).
- An enhanced understanding of critical aspects that will facilitate ABS implementation at national level. Issues covered were simplified access for basic research, effective Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT) processes, effective benefit-sharing negotiations and agreements with the private sector including the understanding of private sector business models, effective compliance procedures and the potential use of (biocultural) community protocols which clarify and facilitate interactions between indigenous and local communities and third parties.

- Some recommendations in support of the revision and the completion of the draft African Union Guidelines.
- An enriched appreciation of the ways and means to document, record and valorise traditional knowledge.
- Identification of challenges and recommendations for future capacity building work under the ABS Initiative, e.g. on the linkages between ABS, traditional knowledge, intellectual property rights, protected areas, the ITPGRFA, GR utilization and business models including biotrade for effective national implementation of the Nagoya Protocol.
- The initiation of the process and coordination of the African Group with respect to Article 10 consultations and nomination of experts by each country for meetings of the Convention on Biological Diversity (emerging from an event to African stakeholders only)

# Process

## Welcome and Introduction

### Technical Opening

Dr Andreas Drews Manager, ABS Capacity Development Initiative and Dr Moscow Marumo, Chief Director, Biodiversity Planning and Management from the South African Department of Environmental Affairs (DEA) and ABS National Focal Point of South Africa welcomed the participants to the 7<sup>th</sup> Pan African ABS Workshop and wished them a productive week.

### Programme Overview and Getting to Known Each Other

This short session introduced the five day programme of this 7<sup>th</sup> Pan-African ABS Workshop, as well as the different stakeholder groups (e.g. researchers, ABS National Focal Points, indigenous and local communities, private sector representatives, etc.) and the team members of the ABS Initiative. A short introduction exercise showed that out of the fifteen countries that had ratified the Nagoya Protocol, seven were African countries. Out of these seven African countries, three had representatives in the meeting. Representatives of two other African countries confirmed that they were in the process of ratifying the Protocol within the next six months.

### From Limbé to Phalaborwa, Experiences on the Way

This opening and inter-active presentation provided a detailed overview of the ABS Initiative's various activities and work throughout 2012. It was highlighted that the ABS Initiative's work is based on five interactive core and support processes and aimed at advancing the ABS Initiative's overall goal<sup>3</sup> of developing enabling environments for the implementation of the third objective of the CBD and of the Nagoya Protocol. The five interactive core and support processes<sup>4</sup>, which describe the basic areas of intervention of the ABS Initiative for ABS capacity development, are the following: support to ratification, national/regional implementation, value chain establishment, amplifying ABS processes and (sub-)regional capacity development coordination for relevant international processes.

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<sup>3</sup> The overall goal of the ABS Initiative is to contribute – based on business partnerships between South and North at a “level playing field” – to poverty reduction, food security, technology transfer, social development including equity and rights, and biodiversity conservation through implementing the Nagoya Protocol (NP) on ABS and the third objective of the Convention on Biological Diversity (CBD) in its entirety:

*“The fair and equitable sharing of benefits arising from the utilisation of genetic/biological resources and of traditional knowledge associated with genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies taking into account all rights over those resources and to technologies, and by appropriate funding”*

<sup>4</sup> **Core processes** are the essential inputs of a project to the development goal, are unique in nature and deliver a direct contribution toward achieving the project objectives. **Support processes** facilitate and enable the other processes to operate.



## Official Opening of the Workshop

- Welcome address by the donors of the ABS Capacity Development Initiative to the participants of the 7<sup>th</sup> Pan-African ABS workshop:

**Bente Herstad**, Policy Director, Department for Climate, Energy and Environment of NORAD under the Norwegian Ministry of Foreign Affairs.

**Andreas Künne**, Head of the Department for Economy and International Affairs, German Embassy in South Africa.

**Rajae Chafil**, Spécialiste de Programme Négociations Internationales sur l'Environnement et le Développement Durable, Institut de la Francophonie pour le Développement.

**Mahlet Teshome**, Project Officer in the Directorate of Human Resources, Science and Technology of the African Union Commission.

- Official opening of the workshop by **H.E. Edna Molena**, the South African Minister of Water and Environmental Affairs who was introduced by the Executive Mayor of BA – Phalaborwa Local Municipality, **Nomvula Sono**.
- The official opening ceremony ended with the symbolic handover of the second royalty payment to the National Traditional Healers Committee of Limpopo by the Minister.

## African Union Guidelines for a Coordinated Implementation of the Nagoya Protocol: Background, Overview, Status Quo

This session introduced the African Union Guidelines and presented a summary of the draft document to the participants. Presentations gave a brief overview of the technical and political process and of the key milestones in the development of the guidelines and then concentrated on the content of the guidelines. The elaboration of the guidelines followed the approach recommended as a result of consultations during the 6<sup>th</sup> Pan African workshop in Limbé, Cameroun where the need for a more homogenous and unified implementation of the Nagoya Protocol was highlighted.

After the presentations, the plenary discussion touched on the following points:

- How the African Union Guidelines could support preparations for ICNP-3.
- The necessity to circulate the French, Spanish and Portuguese versions of the African Union Guidelines as soon as possible to allow all countries from the African region to support the development of the guidelines in a more effective and timely manner.
- The African Union Guidelines provide elements to facilitate the implementation of the Nagoya Protocol at national level.
- The importance of having a flexible process in the development of the guidelines in order to adapt to continuing developments at the international level.
- Similarly to the African Model Law, the African Union Guidelines are meant to provide voluntary guidance and as such no African state is obliged to follow them.

- It was recognised and highlighted that the “utilisation of genetic resources” is creating the benefits to be shared. Considering that utilisation in many cases is conditional upon access to these resources, promoting conditions for access to genetic resources and a harmonised access system could make Africa more interesting for users of genetic resources, prevent competition between African countries and provide greater legal clarity and certainty for users.
- While PIC contributes to ensuring compliance, MAT is essential to direct benefits to indigenous and local communities.
- Collaboration and exchange of information between neighbouring countries are essential to stop “biopiracy”.
- The potential for the African Union Commission to establish a database to identify non-compliant users and trustworthy collaborators as a way to prevent “biopiracy”.

Participants were encouraged to provide their inputs and/or comments on the draft African Union Guidelines during the week and/or in writing via email before 2<sup>nd</sup> April 2013.

### **Update on the Access and Benefit Sharing in the Arena of Food and Agriculture: Commission on Genetic Resources on Food and Agriculture (CGRFA) of the Food and Agriculture Organisation (FAO)**

This presentation discussed some aspects of the interfaces between the Nagoya Protocol on ABS and the ITPGRFA, more particularly whether or not there was a need for additional legal instruments for genetic resources for food and agriculture under the CGRFA. It was highlighted that the objectives for ABS in the food sector are related to food security and therefore require continuous access to the global commons. Generally, different genetic resource sectors imply different features and uses which require different considerations and treatments. For example, animal genetic resources, aquatic resources and micro-organisms are very different in their characteristics and uses from the plant sector where, additionally to these divergences, resources are continuously exchanged. Micro-organisms have a wide range of uses in the agriculture industry or the research sector. The special features of GRFA have led to decoupling benefit sharing from individual provider, and individual genetic resource into a global fund. It provides a multilateral system of access and benefit-sharing. This system has a simple, transparent and sufficiently flexible structure. It is built upon existing practice of exchange and aims at pooling resources together. The implementation of the Nagoya Protocol and the ITPGRFA should be carried out in a mutually supportive manner at the national level. It is important to note that the ITPGRFA is currently regulating the access and benefit sharing of 64 cultivated plants and that the Nagoya Protocol does not apply to the crop plants listed in Annex 1 of the ITPRGFA when they are used for the purposes set out under the Treaty.

In the subsequent discussion, participants raised some concerns in terms of determining which genetic resources actually fall under the scope of the Nagoya Protocol and therefore which of the two instruments should apply to specific genetic resources.

## Introduction to the Field Trip: South African Regulations and Valorisation of *Lippia javanica*

### South African Access and Benefit Sharing Regulations

The presentation provided a brief but comprehensive overview of the South African legislative framework and current requirements relevant to the use of genetic resources for fundamental research and commercialisation in the context of ABS. Various awareness raising and capacity building initiatives carried out by the DEA were presented. Key challenges were also highlighted, more particularly the lack of a national system for the verification of legitimate knowledge, the lack of transboundary cooperation on shared resources and traditional knowledge and the lack of enforcement mechanisms once genetic resources have been exported for bioprospecting and biotrade. Lessons learnt presented underlined that a one size fits all approach is not feasible for bioprospecting and biotrade activities and that it was essential to establish a mechanism that will monitor and track the utilisation of genetic resources by national and foreign research and development companies for commercial product development.

The plenary discussion that followed provided some clarifications on the fact that in the South African ABS legislation, national and foreign users needed to fulfil the same requirements. However, an international organisation has to partner with a local company to apply for a permit. Attention was also drawn to the need for national legislation on ABS to be flexible enough to enable any necessary amendments that will address both local circumstances and international relevant treaties.

### Valorisation of the *Lippia javanica*: Benefit Sharing through Scientific Innovation and Traditional knowledge

This presentation gave background information on the successful story of the collaboration between the Council for Scientific and Industrial Research (CSIR) of South Africa and traditional health practitioners whose traditional knowledge led to the discovery and commercialisation of a mosquito (including malaria mosquito carriers) repellent candle. The repellent, product of a technology developed by the CSIR, is based on the active ingredients of the *Lippia javanica*, a medicinal plant indigenous to tropical and subtropical Africa that is not found in any of the current repellents on the market. The research showed that the CSIR-developed mosquito-repellent candle is significantly more efficient at repelling mosquitoes when compared to the current products on the market. A benefit sharing agreement was established and resulted into a first benefit payment to the traditional healers in July 2012 and then a second benefit payment made during the opening ceremony of this workshop. The presentation also highlighted the importance of an appropriate and conducive legal framework for this type of collaboration and provided great details on the value chain from the knowledge holders to market/sales distribution. The *Lippia javanica* project illustrates the value of bringing together biodiversity, indigenous knowledge and scientific innovation not only for the generation of health benefits but also for the generation of benefits for knowledge holders and of economic opportunities for rural and indigenous communities.

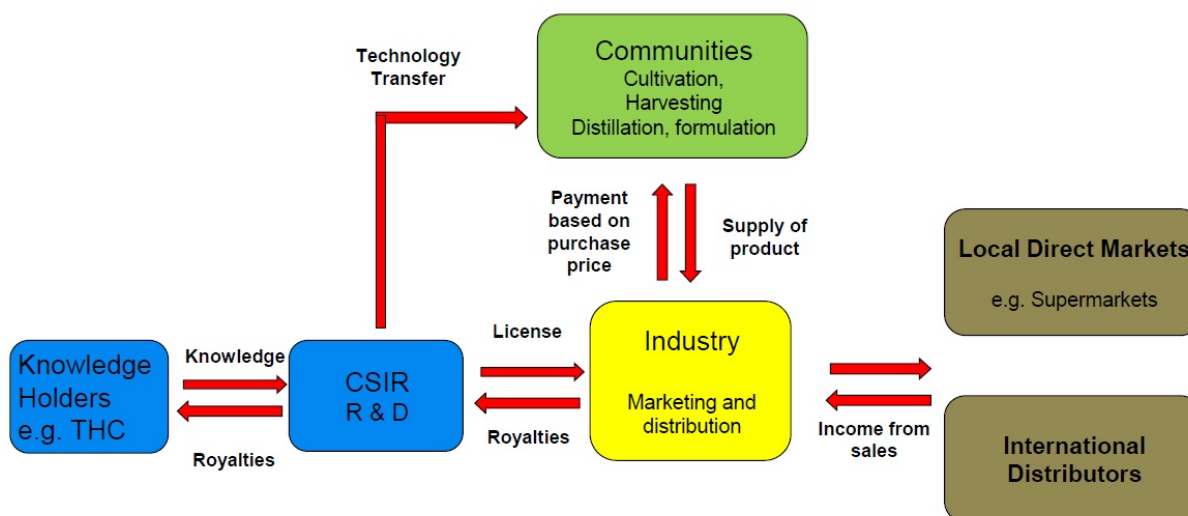


## Field Trip: The *Lippia javanica* Case

### Site Visits to the *Lippia javanica* Cultivation, Distillation and Oil-Extraction Community-Based Project in Giyani, Limpopo

The field trip consisted of three site visits and was concluded by a panel and plenary discussion. The first site visit offered the participants the opportunities to observe *L. javanica* in the wild. There, traditional healers explained that local populations have traditionally utilised the *L. javanica* as a mosquito repellent, wiping its branches on their skin and at the entrance of their homes or burning it in an open fire at night. They also use it, inter alia, as a cough and cold remedy, to treat skin problems or to bring down fevers and treat malaria. Traditional healers also explained that they worked closely with the CSIR to identify the chemotype of the plant species with superior mosquito repellent properties. This specific chemotype was then domesticated and used for cultivation. The second site visit allowed the participants to meet local farm workers of a *L. javanica* plantation while the third and last site visit at the processing facility gave them the possibility to learn about the oil distillation process and candle production.

#### *Stakeholders of the Lippia javanica value chain and their interrelations*



The following is a summary of the main issues discussed during the panel and plenary discussions that took place after these three site visits:

- The project implementation in Giyani is the result of an on-going collaboration between the Department of Environmental Affairs, the CSIR, the Department of Science and Technology, the National Traditional Healers Committee and the Maswanganyi and Mabunda communities in Giyani. This community-based production process development project aimed to create job opportunities and promote the advancement of women in the agricultural sector through the sustainable use of biodiversity and traditional knowledge.

- Traditional knowledge is at the origin of the development of this initiative. The success of this entire project and collaboration highlights the importance of bridging the gap between traditional knowledge and scientific knowledge. This type of scientific research, i.e. the extraction of the bioactive ingredient, is guided by traditional knowledge.
- South Africa's major aim is to redress the injustice from the past. This is a demonstration project; there is therefore no return of investment for the government other than the creation of economic opportunities for and skills transfer to local and indigenous communities.
- The CSIR is running other research programmes on the potential of other plants provided by traditional healers but these research programmes have not yet reached the research and development stage.
- Typically, the private sector gets involved early in the development cycle to provide necessary market and design advice.
- The CSIR took the lead in negotiating the commercial terms for a licence with Zollhaus, a private sector company whose expertise lies in developing and positioning products in key market segments, to formulate a patented extract into mosquito repellent products for distribution and sale to local and export markets. The CSIR does not retain any dividends. All the royalties negotiated under the licence are/will be paid in full to the knowledge holders.
- Although the knowledge is widely shared, the benefits as set in the benefit sharing agreement only go to the traditional healers who conveyed this specific knowledge to the CSIR.
- The regulation with regard to who will receive the benefit will depend on the benefit sharing agreement negotiated between users and providers. This agreement will have to be presented to the Minister and approved by her.

### Reflection on the Field Trip

To introduce the next session dedicated to traditional knowledge, participants first were invited to reflect in groups on the *Lippia javanica* case and the South African effort to develop and promote an enabling environment for the development of value chains.

The following is a summary of the points reported by each reflection group:

- The private sector needs to be involved as early as possible in the development life cycle to provide the advice needed on the further development of a product.
- This case illustrates a concrete valorisation of a genetic resource with associated traditional knowledge i.e. commitment from both the research sector and the private sector along with the support of government and the participation of knowledge holders and communities is a recipe for success.
- The high involvement of the state.
- The elements of technology, innovation and transfer to business were very effective. However, considering that this knowledge is widely spread, the benefit-sharing agreement would need to benefit the wider community.
- A public consultation process is necessary in order to identify all the beneficiaries of a knowledge prior to the minister's approval of benefit sharing agreements.

- The good organisation of traditional healers. This case highlights the unusual fact that traditional healers took the initiative to approach a research organisation and share their knowledge.
- The need for funds and investments.
- The question of how the government will anticipate the development of independent community crop organisations needs to be explored.
- The South African legislation does not undermine traditional knowledge holders.
- The identification of proper institutional mechanisms in the legislation and the communities to address ABS.
- The issue of traditional knowledge, traditional healers and their custodian role.
- Land tenure systems should be supporting the ABS process so that communities living from the land have some returns as well.
- To ensure awareness-raising at community level so that more communities may grow this crop and further the empowerment of women in agriculture.
- The end product, the candle, is too expensive for the communities to benefit from it. Considering the issue of malaria in this region of South Africa, these candles should be more accessible to rural and poor communities, in particular those who contribute to its production.
- The innovative aspect of the transaction did not really come out.
- Where is the part of the model that is looking at the biodiversity consumption, conservation and sustainable use aspects? Is there provision in the South African legislation to address this?

The outcomes of the reflection exercise underlined the multifaceted nature of ABS as per the various clusters highlighted by the various groups such as the market, intellectual property rights and knowledge, how ABS contributes to conservation and sustainable use of biological diversity, research and development, what is the role of government in product development scheme, resources utilisation and gender. A good ABS agreement should address many different aspects. Participants felt that all these identified aspects should be given consideration in the Initiative's future work.

### **Traditional knowledge: Documentation, Valorisation and Compliance**

In response to a set of articles under the Nagoya Protocol which require that Parties adopt certain measures in relation to traditional knowledge, a number of countries are starting to document existing indigenous and/or traditional knowledge or considering how to protect traditional knowledge and are identifying which traditional knowledge has potential for research and development. Identifying who the knowledge holders are is also essential for the fair and equitable share of the benefits. Recording traditional knowledge is therefore becoming more and more important. The following presentations provided an overview of and discussed two different ways of referencing traditional knowledge: knowledge libraries and the traditional knowledge commons approach at a community's level.

#### **The Traditional Knowledge Digital Library of India**

This presentation provided an insightful overview of India's streamlining and pioneering approach to traditional knowledge resulting in the development of the Indian Traditional



Knowledge Digital Library (TKDL) and its integrated Global Bio-piracy Watch System related to Indian traditional medicine systems. The aim of this innovative tool is to make information on Indian traditional knowledge available to international patent offices in order to prevent false patents based on this knowledge, i.e. misappropriation or bio-piracy attempts by third parties. Considering the novelty, utility and effectiveness of the TKDL to prevent the granting of false patents, various countries have already shown interest in replicating the model and create their own TKDL.

### The National Recordal System of South Africa

This presentation provided a useful preview of the National Recordal System (NRS) of South Africa. The NRS is an ambitious initiative of the Department of Science and Technology aimed at preserving, protecting, recording and promoting South Africa's invaluable wealth of indigenous knowledge for the socio-economic and development benefits of local communities. The NRS will operate an online repository platform for oral forms of indigenous knowledge and create a legal framework for the dissemination of this knowledge in support of ABS national and international law. The collection of unrecorded indigenous knowledge is facilitated by the introduction of innovative and new technologies and the use of a bottom up approach which promotes the respect of the cultural and traditional rules of knowledge holders.

### A Traditional Knowledge Commons

This presentation examined the concept of traditional knowledge commons as a potential approach to the protection and use of traditional knowledge. Creating a common pool where the knowledge is shared amongst members would avoid intergenerational traditional knowledge to be lost and allow it to be continuously renewed. Such a mechanism could serve as an interface not only between the communities and the law but also between the communities and the various potential users (businesses, researchers, etc.) of their traditional knowledge. Establishing a set of rules on how the knowledge is to be accessed and used will avoid any utilisation without the prior informed consent of the knowledge holders. Traditional knowledge could be further protected by a set of user licenses for the various usages through which communities could define what form benefits should take and require compliance with customary laws that govern the use of their traditional knowledge. For example, the Kukula Traditional Health Practitioners of Bushbuckridge in South Africa decided, as a result of the development process of a biocultural community protocol (BCP), to create a traditional knowledge commons where individual knowledge is shared amongst members. Rules on how to access and use the knowledge are included in their BCP.

### Panel Discussion

This session devoted to traditional knowledge was concluded by a panel discussion and was then opened for discussion with participants. The following is a summary of the issues discussed:

- The Indian TKDL model is ahead of time and is related to Indian traditional medicine systems only. Although it is applicable to South Africa, research showed that South

Africa needed to develop a system unique to South Africa and related to its own traditional medicine and knowledge.

- There are fundamental differences between the India TKDL and the South African NRS. Indian traditional knowledge is documented in writing while in South Africa, traditional knowledge is mostly in oral state. The Indian TKDL is designed as defensive protection in the context of the patent systems. The South African NRS is currently a repository system of traditional knowledge and practices. However, the move towards a search and recording system is in progress. It will be an online research tool but as opposed to the Indian system, it will allow communities to track the information they provide and any existing agreement. The system will offer three level of access – free, confidential and secret. Six levels of agreements will be required from potential users of the database (e.g. the use of a license to access a specific traditional knowledge). The NRS will verify if every user is compliant.
- Another major difference between the Indian and South African systems is that in India, traditional knowledge of the Ayurveda and other well documented traditional health systems belongs to the State. No one has received any direct benefits. With the South African system, benefits have already been conveyed and will continue to be provided to the knowledge holders in line with the national ABS framework.
- The Department of Science and Technology carried out an audit on the different traditional knowledge database systems which currently exist in South Africa and will enter in agreement with them in order to include the knowledge collected into the NRS. Cooperation is therefore important for various reasons but essentially because both civil society and government can bring different experiences from working with communities.
- The goal of the NRS is to record as much knowledge as possible. However, it is important to note that for the communities taking part in the NRS project is completely optional. The project is currently in its first phase where the main themes for collection are food (for food security reason) and medicine. The scope then will expand to other themes such as indigenous knowledge and astronomy.
- As far as the process is concerned, the NRS went from cataloguing to validation which includes both community's validation and scientific validation.
- The NSR does not deal with issues related to shared-knowledge. However, this could be taken care of by another body.
- The cost of setting up a TKDL like database in the region is substantial. The costs and maintenance of the South African system are important. The system needs continuous update because traditional knowledge is very dynamic in South Africa as opposed to the Indian TKDL which is frozen in time.
- The communities and traditional healers are very much part of the NRS project development process. They are involved in the design of the database and different focus groups (craft, healers, food, etc.) have been established. For this system to work, it is important that the communities have a certain level of control over it.
- The Kukula Traditional Health Practitioners of Bushbuckridge (300/400 members) consider themselves as custodians of their surrounding biodiversity and wish to keep their knowledge within their members. They have organised themselves into a committee to bring their knowledge together. Hence, they need to all agree to share their knowledge with third parties. The development of a BCP helped them to be more knowledgeable about the law. They are currently setting a disclosure agreement with a small local cosmetic company to research the use of some of

genetic resources associated with their traditional knowledge. If any research leads to the development of cosmetic products, an ABS agreement will then be negotiated. With regard to the NRS, more information is necessary to make the decision to be part of the project.

- South African ABS legislation is already protecting traditional knowledge for the benefit of the communities. Some negotiations are currently happening with regard to mandatory disclosure of traditional knowledge associated with genetic resources in the Patent Amendment Bill.
- WIPO has brought traditional knowledge to the fore. Traditional knowledge is not new as it has been passed on from generations. This already in itself defies the patent criteria. It is always oral and is usually owned by an entire community. One can understand the concerns of the private sector but a balance must be found.
- The protection of traditional knowledge commons through a licence will fall under the law of contract and the national legislation on the use of traditional knowledge
- Bioeconomy refers to a set of economic activities involving the invention, development, production and use of biological products and processes.
- BCPs create better certainty for businesses as it clarifies the path on how to interact with communities.
- It is important to protect and preserve the ecosystems, systems of values and cultures on which traditional knowledge is based so that traditional knowledge does not die or disappear.
- There is a clear need for building capacity in the field of creating systems as the TKDL, the NRS or traditional knowledge commons.

## Introduction to Thematic Sessions

Participants were introduced to the thematic sessions and invited to participate in four (two morning sessions; two afternoon sessions) out of six thematic sessions. These were as follows:

1. Interface between ABS and Protected Areas
2. Research and Development, Business and Benefits Sharing Models and Interface between Biotrade and ABS
3. Simplified Access to Basic Research
4. Compliance in Africa
5. Biocultural Community Protocols
6. Interface between the Nagoya Protocol and the ITPGRFA

## Side Event

[The European Union Draft Regulation on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union](#)

Søren Mark Jansen, Danish Ministry of the Environment, presented the process and the main features of the European Union Draft Regulation on Access to Genetic Resources and



the Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union. Subsequently, participants had the opportunity to ask questions, raise concerns and enter into vivid discussions. Based on the current features of the document major concerns were raised with regard to, among others, the issue of traditional knowledge which will be dealt with by member states in their national legislation, the provisions for due diligence, checkpoints, material transfer agreements and new utilisations of genetic resources.

## Report Back on the Thematic Sessions

The following tables provide a summary of the points highlighted in each thematic session.

Theme 1	<b>Interface between ABS and Protected Areas:</b> This session discussed why this topic is important, what should be done and what ABS processes can learn from the protected area programme of work. The case studies of Ivory Coast, Kenya and South Africa's practices illustrated the purpose of this thematic session.
<i>Discussion Summary</i>	<p>The group was informed of current discussions within the ABS Initiative on the linkages between ABS and protected areas, illustrated by country examples:</p> <ul style="list-style-type: none"> <li>▪ ABS &amp; protected areas share complementary legal frameworks (CBD PoWPA and Nagoya Protocol at international level).</li> <li>▪ Protected areas can benefit from research &amp; bioprospecting (contribution to sustainable financing, non-monetary benefits such as sharing of research results).</li> <li>▪ ABS can contribute to conservation and sustainable use by providing an incentive.</li> <li>▪ Both frameworks face common governance challenges.</li> <li>▪ The implementation of the Nagoya Protocol will provide legal clarity regarding access to genetic resources. Protected areas governance could benefit from the clarification of procedures, e.g. with regard to land/resource rights issues relevant for establishing Payment for Ecosystem Services schemes.</li> </ul>
<i>Some of the main outcomes of the sessions</i>	<ul style="list-style-type: none"> <li>▪ Protected areas are bioprospecting hotspots (natural abundance of species; taxonomy well documented, research areas) – thus the implementation of the Nagoya Protocol needs to consider particularities of protected areas and vice versa.</li> <li>▪ Resource rights in protected areas, including in buffer zones, are often complex: rights have often been given to different actors for specific uses – but who has the right to grant access to genetic resources and to receive benefits in these situations?</li> <li>▪ When a genetic resource is found both within and outside of a protected area, how to make sure that local communities /</li> </ul>

	<p>landowners outside of the protected areas are involved in ABS negotiations and receive benefits in return for their custodianship of the resource?</p> <ul style="list-style-type: none"> <li>▪ How to deal with rights situations where local communities have in the past been forcibly displaced to make room for a protected area?</li> </ul>
<i>Solutions suggested</i>	<ul style="list-style-type: none"> <li>▪ For implementation of the Nagoya Protocol, countries need to clarify from the onset the rights to grant access to genetic resources under different land tenure situations, including in protected areas and their surrounding buffer and use zones.</li> <li>▪ Access rules for genetic resources occurring both within and outside of Protected areas need to be harmonised / streamlined</li> <li>▪ Access to genetic resources for bioprospecting in strictly conserved protected areas (IUCN category I) needs to be discussed in order to determine whether it could be allowed in certain circumstances.</li> <li>▪ For the local custodians of genetic resources and traditional knowledge to benefit from ABS, all types of protected areas governance should be recognised, especially Indigenous and Community Conserved Areas (example: community conservancies in Namibia).</li> </ul>
<i>How to support countries in the implementation?</i>	<p>The ABS Initiative will be producing:</p> <ul style="list-style-type: none"> <li>▪ Policy Briefs on the linkages for ABS and protected area policy makers.</li> <li>▪ Guidelines on ABS for protected area managers.</li> </ul>

<b>Theme 2</b>	<p><b>Research and Development, Business and Benefit Sharing Models and Interface between Biotrade and ABS:</b></p> <p>This session discussed private sector's expectations and how to develop a successful partnership while demonstrating that well negotiated Prior Informed Consent and Mutually Agreed Terms can become opportunities for the conservation of the environment and poverty alleviation</p>
<i>Discussion Summary</i>	<p>The focus of the group discussions was placed on understanding private sector's operations and expectations in order to negotiate better benefit-sharing agreements.</p>
<i>Some of the main outcomes of the sessions</i>	<ul style="list-style-type: none"> <li>▪ Businesses access and use genetic resources in various ways. Different sectors have different models and needs. The three key factors to identify how they operate are: <ul style="list-style-type: none"> <li>• Their industry sector (agriculture, cosmetic, etc.).</li> <li>• Their position in the supply chain (e.g. in the user or provider country).</li> </ul> </li> </ul>

- Their activities (e.g. from basic collection of samples to in depth research).
- Identifying the appropriate sector will define the time frame under which the utilisation and potential marketing of genetic resources are done. For instance, research and development in the agriculture sector can take up to six months as opposed to the pharmaceuticals where research can take up to twenty years.
- From the 'field to the shelves', a basic business approach emerges. Generally, genetic resources go through five key phases which are as follows:
  - Research and development: validate an activity on a specific genetic resource.
  - Business plan: validate a market for this activity and feasibility of the production.
  - Production: when necessary, set up the production of the genetic/biological resource.
  - Marketing: activities to sell the product or service containing the genetic resource.
- Investments from private actors increase at each stage, but financial returns only start to materialise at the marketing phase.
- PIC and MAT cannot forecast and take everything into account at the inception of the process. For instance, in the South African legislation, PIC occurs at the discovery phase and at the commercialisation phase.
- Different benefits can be required at different points in time of the relationship between a user and a provider.
- In all cases, benefit-sharing negotiations will be specific to the requirements of both the user and provider and their approach to the entire process.
- The provider's approach in defining the benefits that matter to him can include the following:
  - Needs expressed by the local actors where the collection or research and development are taking place.
  - Regional or national strategies to support the emergence of some business sectors or capacities (e.g. research and development in Costa Rica).
  - The estimated value of genetic resources and associated traditional knowledge.

*Solutions suggested to address these needs*

Different approaches to benefit-sharing are translated into different benefit-sharing models. However, the above points constitute a good starting point for:

- Understanding the specificities of user requirements.
- Outlining benefit-sharing and protection of property rights requirements.

Such an understanding could avoid agreements that fail. Feedback



from the business community show that their requirements are often perceived to be either good or bad, with very little recognition of the fact that utilisation of genetic resources is a process.

*How to support countries in the implementation of the compliance provisions?*

Appropriate national legislation could provide guidance for benefit-sharing agreements.

Training on R&D / Business Models with regard to the utilization of genetic resources

### Theme 3

#### Simplified Access for Basic Research:

This session focussed on access to genetic resources and traditional knowledge in relation to basic research and applied research

#### *Discussion Summary*

The groups discussed access to genetic resources and associated traditional knowledge in the context of Article 8 (a) of the Nagoya Protocol, which provides for, among others, simplified measures on access for non-commercial research purposes. Further, participants discussed what basic research may represent and how it is normally distinguished from applied research. Participants exchanged on their experiences and gave practical examples of how access in the context of basic research is regulated in their respective country. Finally, the draft Template Basic ABS Agreement with non-commercial purpose, which has been developed in conjunction with the African Union Guidelines, was presented.

#### *Some of the main outcomes of the sessions and solutions suggested*

- The participants agreed that it is key to have a clear definition of what is “basic research”. The distinction was made between research with non-commercial purpose (generation of scientific knowledge, development of tools/techniques) and research with commercial purpose (research and innovation for the development of products based on genetic resources and/or associated traditional knowledge; implementation of a commercialisation strategy for products based on genetic resources and/or associated traditional knowledge).
- Further, it was highlighted that clear criteria for the identification of a change of intent are needed. The following elements were discussed to help identify the change from a research project with non-commercial purpose to one with commercial purpose:
  - Objective of the research and its evolution
  - Type of publication
  - Filing of a patent (and its objective)
  - Other instruments of verification of the innovation
  - Monitoring of the utilisation of the patent

- Existence of a business plan
- In light of this, participants also discussed the possibility to rethink the concept of research with non-commercial or commercial intent and to only distinguish the phases along the chain of research and development and commercialisation (see for example, the South African approach: exploratory phase – developing phase – commercialisation phase).
- Finally, participants also commented on the draft Template Basic ABS Agreement with non-commercial purpose and pointed out that it is crucial to include annual continuous reporting obligations to ensure an effective monitoring, in particular with a view to a change of intent. Also, the possibility of joint patents (provider/user) was highlighted as a desirable option in the context of the more comprehensive ABS agreement at a later stage. Participants also suggested visualising the permitting system (application form + ABS agreements) to allow a better understanding of the roles and the process.

*How to support countries in the implementation?* Prerequisites for an effective ABS system at the national level are 1) a well organised institutional structure, which also includes representatives of indigenous and local communities, 2) a clear regulatory framework, and 3) well negotiated contracts. In addition, a harmonised approach at the sub-regional level is desirable.

#### Theme 4

#### Compliance in Africa:

Compliance is the cornerstone of the Nagoya Protocol. This session examined the various compliance provisions in the Protocol and their implementation at national level.

*Discussion Summary* The groups discussed compliance with ABS requirements of provider countries, compliance with MAT, monitoring of the utilisation of genetic resources and compliance with the Protocol.

Countries of the region are mostly providers of genetic resources and, with the exception of South African, have not yet addressed the implementation of the compliance provisions.

- Some of the main outcomes of the sessions*
- The need for awareness-raising at national level at various levels was stressed.
  - In order to support compliance with ABS requirements of provider countries, need to raise awareness of both providers and users of genetic resources.
  - Need for clear ABS procedures to support compliance.
  - Need to ensure proper consultation process in the development

	<p>of ABS national measures. Need to involve providers in the development of national ABS measures (e.g. private companies as providers of resources) or indigenous and local communities to ensure their effectiveness.</p> <ul style="list-style-type: none"> <li>▪ Need to raise awareness of providers of how ABS works in practice in different sectors to ensure that the measures are in line with the practice.</li> </ul>
<i>Solutions suggested to address these needs</i>	<ul style="list-style-type: none"> <li>▪ National nodes to be developed at the country level could take the lead in building awareness and capacity at the national level.</li> <li>▪ Website of the ABS Initiative could provide additional information regarding the outcomes of its activities such as the various workshops and trainings in order to assist national focal points in further disseminating this information at the national level and providing input to the national reflection.</li> <li>▪ To make available tools that can be used at national level such as the Communication, Education and Public Awareness Guide (commonly called CEPA Guide) which assist countries in raising awareness.</li> <li>▪ Make available awareness-raising material to inform governments about how different users/sectors using genetic resources operate in practice in order to inform the development of national measures and facilitate compliance.</li> <li>▪ Need for financial support to assist countries in carrying out these awareness-raising activities.</li> </ul>
<i>How to support countries in the implementation of the compliance provisions?</i>	<ul style="list-style-type: none"> <li>▪ With respect to compliance with MAT: Need for support in better understanding the types of measures that should be included in MAT, such as options regarding dispute settlement mechanisms, how private international law would apply to ABS contracts.</li> <li>▪ Check points: What could be relevant check points? How to determine this?</li> </ul>

<b>Theme 5</b>	<p><b>Biocultural Community Protocols:</b></p> <p>This session provided a comprehensive overview on what is meant by BCPs and their valuable role in simplifying and clarifying the interaction between the communities and third parties in relation to access to genetic resources associated with traditional knowledge.</p>
<i>Discussion Summary</i>	<p>The focus of this session was on the use of BCPs to facilitate ABS agreements involving communities. The group discussed the role of BCPs as community developed tools to support dialogue and constructive collaboration between various stakeholders. BCPs support communities to understand and engage with ABS</p>

regulations or other relevant laws and help provide clarity and certainty to governments, researchers, and other actors on matters pertaining to obtaining PIC and MAT.

*Some of the main outcomes of the sessions*

- BCPs provide a helpful interface between customary law and national law. Though a challenge can arise when local government authority overlaps with traditional community authorities.
- BCPs can provide clarity on identification of the community, customary procedures and decision-making processes, which are important when obtaining PIC and entering into MAT.
- The BCP process is an effective tool to support communities in deciding if and how they wish to take part in ABS agreements.
- It was discussed that BCP is an evolving process and the document should adapt to the need expressed by a specific community at a particular time depending on the circumstances.
- Similar processes or instruments have been developed by local communities and in some cases BCP processes can build on these and in others a BCP will not be necessary.

*Solutions suggested to address these needs*

- Using BCPs to harmonise the visions of users and providers of genetic resources and associated TK.
- Stakeholders should be capacitated on national and international rights framework, which would support ABS.
- The State has an important role in supporting communities develop their BCPs and providing legal/policy recognition of BCPs.
- In developing national legislation, States should follow the Nagoya Protocol and include recognition of BCPs (or community protocols).

*How to support countries in the implementation of the compliance provisions?*

- Develop best practice on the development of BCPs.
- Conduct legal reviews on relevant community rights in the countries where the ABS Initiative supports national processes.
- BCPs will be mentioned in the African Union draft regulation on ABS and an annex will be provided to expand on this.
- Natural Justice / the ABS Initiative will strive to increase the intervention in francophone countries through the development of BCPs.
- Clarify PIC and MAT procedures for potential users and providers and clarify customary procedures for governments.
- Provide training to relevant government departments, civil society and business on BCP development and use.

Theme 6	<b>Interface between the Nagoya Protocol and the International Treaty on Plant Genetic Resources for Food and Agriculture:</b> This session discussed the coordinated implementation of both instruments within national laws, looking at the issues around intellectual property rights, patents and other relevant issues.
<i>Discussion Summary</i>	The group discussions aimed to develop legal understanding and tackle issues of practical implementation of the Nagoya Protocol and the ITPGRFA.
<i>Some of the main outcomes of the sessions</i>	<ul style="list-style-type: none"> <li>▪ Some of the terms in the provisions of the ITPGRFA which contain unresolved issues of interpretation, e.g. in relation to Articles 6.2 &amp; 6.7 were highlighted and discussed.</li> <li>▪ The subject of access as a benefit in itself generated enthusiastic debate and reflections.</li> <li>▪ Concerning Article 12.3 of the ITPGRFA and material taken out of the Multilateral System (MLS), the challenges that might arise for cases that were not precisely covered by the definitions and different consequences that might lead to were debated.</li> <li>▪ Concerns were expressed on the lack of monitoring/tracking of material and subsequent possible breaches of the standard mutual transfer agreement (SMTA), the relevance of monitoring accessions, and the role of the enforcing system under the ITPGRFA.</li> <li>▪ The question of the relative advantage for a country to put material into the MLS compared to what they might receive also generated enthusiastic debate and reflections.</li> <li>▪ The need to better understand the scope of the MLS i.e. to identify clearly the genetic resources included in the scope of the MLS.</li> <li>▪ Concerns were also expressed in relation to patents on genetic material obtained through the MLS and how this could be consistent with the “scientific” ideal of wanting to help the world through scientific development and make scientific knowledge available to everyone.</li> <li>▪ More concerns were raised with regard to the weaknesses of the ITPGRFA in ensuring that MTAs are well respected and that genetic material will not be used for purposes other than those provided in the agreement.</li> <li>▪ Challenges to ensure that the benefits generated will flow to the farmers in accordance with farmers’ rights stipulated in the ITPGRFA were highlighted.</li> <li>▪ Potential challenges/risks arising from legislating while the Nagoya Protocol is not yet enforced.</li> </ul>
<i>Solutions suggested</i>	<ul style="list-style-type: none"> <li>▪ Article 10 of the Nagoya Protocol could provide a solution for those cases where material accessed through the multilateral system are used for non-food/feed uses contrary to what is envisaged for material from the MLS. It was noted that it would be</li> </ul>



interesting to use another legal instrument to solve challenges posed by another instrument.

- The importance to clarify and coordinate with colleagues working within the government on agricultural issues what is covered by the MLS and thus SMTA and what is covered by the CBD/Nagoya Protocol, and also who governs material that is not in the MLS.
- It was suggested that the ABS Initiative should organise one joint workshop to discuss national implementation of the two instruments or alternatively invite ITPGRFA focal points to future ABS workshops.
- It is essential that the ITPGRFA and ABS focal points communicate with each other.
- The importance of taking into account that the objectives of each instrument are different and will need some efforts to make them complementary.
- Creating synergies between the two instruments at international level is also essential. The ABS Initiative could for example undertake a critical study of potential synergies at the international level.
- The Moroccan initiative of creating joint committees with various ministers (agriculture, science and environment) to ensure good communication is worth exploring and recommending. Such a recommendation could be made at the international level to ensure its implementation at national level.

*Domestic  
Implementation/  
consideration*

- It was pointed out that it is important in a domestic situation to clarify which PGRFA are considered to be “managed and controlled” by the government and what their national legislation does or should define as “public domain”.
- The issue of national ownership over resources in public versus private areas is equally important to decide upon.

## Reflection on the African Guidelines and Way Forward

Based on the thematic discussions, Mrs Malhet Teshome from the Directorate of Human Resources, Science and Technology of the African Union Commission, provided the following recommendations to include in the draft African Union Guidelines:

1. *ABS and Protected Areas*: Linkages under the two constituencies covering interrelated issues should be established. Protected areas and the community rights linked to those areas is a critical issue to be considered.
2. *Research and Development, Business and Benefit Sharing Models and Interface between Biotrade and ABS*: Better legal clarity at national level is necessary. Guidance as to the ideal stages of concluding PIC and MAT agreements should be provided as well as sample formats which will ensure transparent transactions.
3. *Simplified Access for Basic Research*: Recommendations for simplified procedures given based on the template annexed to the draft African Union guidelines (refer to notes).
4. *Compliance in Africa*: Clear accountability system on the side of the user should be established in MAT (A transparent monitoring procedure prescribed under the Nagoya Protocol). Need for the establishment of checkpoints where the genetic resources are to be utilised (user country).
5. *Biocultural Community Protocols*: Such protocols are key to facilitate the involvement of indigenous and local communities in ABS agreements. Therefore clear guidance as to how Biocultural community protocols could be integrated into the national legislation on ABS is important.
6. *Interface between the Nagoya Protocol and the ITPGRFA*: Identify clearly the interface between the two instruments as it relates to regulation of genetic resources in the Standard Material Transfer Agreement of the ITPGRFA and those to be covered by the Nagoya Protocol.

Following the list of recommendations, a plenary discussion was dedicated to the draft African Union Guidelines. The highlights of the discussion were as follows:

- There is a real need for better communication so that important documents such as the draft African Union Guidelines are circulated to all the stakeholders in a timely manner and in the appropriate language.
- The purpose of the regular session of the CGRFA planned on 13<sup>th</sup> to 19<sup>th</sup> April 2012 is to consider the way forward with respect to genetic resources for food and agriculture. The decisions adopted at this meeting could have very important impact on the implementation of the Nagoya Protocol. It is therefore critical that these discussions are properly informed.
- It is difficult to speed up the political endorsement of the final draft African Union Guidelines or any similar projects/texts. Once the guidelines are validated at the technical level, they will be presented to the African Ministerial Conference on the

Environment, which initiated this process, and then to the African Union Committee and its Assembly for formal endorsement.

- BCPs are interesting tools/platforms but they are also expensive to do. There is no rational for their consideration above other very well functioning community structures currently existing in various African countries. They should be referred to as an option in the guidelines.
- With regard to the current status of the draft European Union Regulation on Access to Genetic resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union, it is essential to push the issue of traditional knowledge protection.

### **Communication, Education & Public Awareness and ABS 2013**

This presentation aimed to familiarise the participants with the various ABS communication tools and their usage and more particularly with the ABS Strategic Communication Guide. The presentation served also to introduce the newly appointed ABS Communication and Knowledge Management Team to the participants.

### **Work Plan Africa 2013**

This last presentation of the workshop provided a comprehensive overview of the ABS Initiative's programme of work in Africa for 2013 and presented the various projects and activities planned under the five interactive core and support processes for ABS capacity development. This plan of work was to be presented for approval to the Steering Committee of the ABS Initiative held on March 2<sup>nd</sup> and 3<sup>rd</sup> 2013. The approved work plan is to be implemented depending on available funds. The new team members of the ABS Initiative were officially introduced and an overview of the ABS extended team provided.

### **Closure and end of the workshop**

## **Presentations**

The full list of the presentation made during the workshop is as follows:

### *Day 1*

#### **From Limbé to Phalaborwa**

Presenter: Tobias Dierks, ABS Capacity Development Initiative

#### **AU Guidelines for a Coordinated Implementation of the Nagoya Protocol on ABS**

Presenter: Mahlet Teshome, Department of Human Resources Science and Technology – African Union Commission

#### **Guidelines for a Coordinated Implementation of the Nagoya Protocol in Africa, Summary for Discussion**

Presenter: Pierre du Plessis, CRIAA SA-DC – Centre for Research Information Action in Africa Southern African Development and Consulting

#### **Update on ABS in the FAO Arena: Commission on Genetic Resources on Food and Agriculture**

Presenter: Morten Walløe Tvedt & Ane Jørem, FNI – Fridtjof Nansen Institute

#### **South Africa's Legislative Framework on Bioprospecting, Access and Benefit Sharing**

Presenter: Lactitia Tshitwamulomoni, DEA – South African Department of Environmental Affairs

### *Day 2*

#### **Benefit Sharing through Scientific Innovation and Traditional Knowledge**

Presenter: Dr Vinesh Maharaj, CSIR (Biosciences) – South African Council of Scientific and Industrial Research

### *Day 3*

#### **Africa Regional Capacity Building Workshop on the Nagoya Protocol on Access and Benefit Sharing, Traditional knowledge, and Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress of Bio-safety: Report back on the Indian Traditional knowledge Digital Library**

Presenter: Lazarus Kairabeb, NTLA – Nama Traditional Leaders Associations



## **The National Recordal System**

Presenters: Carol van Wyk and Tom Suchanandan, DST – South African Department of Science and Technology

## **A Traditional Knowledge Commons**

Presenter: Gino Cocchiaro, NJ – Natural Justice: Lawyers for Communities and the Environment.

*Day 4*

## **ABS and Protected Areas**

Presenter: Suhel al-Janabi, ABS Capacity Development Initiative

## **APA et les Aires Protégées**

Presenter: Barbara Lassen, ABS Capacity Development Initiative

## **Research and Development, Business and Benefit Sharing Models and Interface Biotrade/ABS “How business operates”**

Presenters: Cyril Lombard – Phytotrade Africa and Pierre du Plessis, CRIAA SA-DC – Centre for Research Information Action in Africa Southern African Development and Consulting

## **Recherche et Développement, Modèle d’Affaire et de Partage des Avantages, Interface APA/Commerce de Matières Premières**

Presenter: Julien Chupin, - Être et Avoir Conseil and Suhel al-Janabi, ABS Initiative – Access and Benefit Sharing Capacity Development Initiative

## **Simplified Access**

Presenter: Dr Hartmut Meyer – ABS Capacity Development Initiative.

## **Simplified Access for Basic Research**

Presenter: Dr Susanne von Saint André, ABS Capacity Development Initiative

## **Trois Question : Accès Simplifié pour la Recherche Fondamentale**

Presenter: Professor Ahmed Birouk – Institut Agronomique et Vétérinaire Hassan II, Morocco; Dr Claudine Ramiarison – Ministère de l'Enseignement Supérieur et de la Recherche Scientifique, Madagascar

## **Accès Simplifié pour la Recherche Fondamentale**

Presenter: Dr Susanne Heitmüller, ABS Capacity Development Initiative

## **Compliance (Eng)**

Presenter: Peter Munyi and Valérie Normand, ABS Capacity Development Initiative

## **Compliance (Fr)**

Presenter: Valérie Normand, ABS Capacity Development Initiative

## **Legal Issues in the Crossfire between the International Treaty on Plant Genetic Resources and ABS under CBD/NP and IPRs**

Presenter: Morten Walløe Tvedt and Ane Jørem, FNI – Fridtjof Nansen Institute and Dr Andreas Drews, ABS Capacity Development Initiative

## **La Relation entre APA et le TIRPAA: Issues à Considérer pour l'Implémentation Mutuellement Favorable**

Presenter: Frédéric Perron-Welch, CISDL – Centre for International Sustainable Development Law

## **Biocultural Community Protocols**

Presenter: Gino Cocchiaro, NJ – Natural Justice: Lawyers for Communities and the Environment

## **Protocoles Bioculturels Communautaires**

Presenter: Barbara Lassen, ABS Capacity Development Initiative and Lassana Koné, Natural Justice: Lawyers for Communities and the Environment

*Day 5*

## **CEPA and ABS 2013: Tools and their Usage**

Presenter: Tobias Dierks, ABS Capacity Development Initiative

## **Work Plan Africa 2013**

Presenter: Dr Andreas Drews, ABS Capacity Development Initiative

## Annotated Agenda

### Monday, February 25<sup>th</sup>

#### Welcome and Introduction

- 8h00            Arrival and registration
- 8h30            Technical Opening ((organisers and host)  
*Andreas Drews, ABS Capacity Development Initiative*  
*Moscow Marumo, South African Department of Environmental Affairs*
- Getting to know each other  
*Moderation Team: Kathrin Heidbrink and Hugues Quenum*
- Programme Overview  
*Moderation Team: Kathrin Heidbrink and Hugues Quenum*

#### From Limbé to Phalaborwa

- 9h30            Experiences on the way  
*Tobias Dierks, ABS Capacity Development Initiative*
- 10h30           Coffee Break

#### Official Opening of the Workshop

- 11h00           Address by the Donors of the ABS Capacity Development Initiative  
*Andreas Künne, German Embassy, Pretoria*  
*Søren Mark Jensen, Danish Ministry of the Environment*  
*Bente Herstad, Norwegian Ministry of Foreign Affairs*  
*Rajae Chafil, Institut de la Francophonie pour le Développement Durable*  
*Mahlet Teshome, African Union Commission*
- Official opening of the workshop by the Minister of Water and Environmental  
Affairs of the republic of South Africa  
*H.E. Edna Molena*
- Symbolic handover of a second royalty payment to the National Traditional  
Healer's Committee by the Minister
- 12h00           Lunch

## **African Union (AU) Guidelines for a Coordinated Implementation of the Nagoya Protocol in Africa**

14h00      African Union Guidelines: Background, Overview, Status Quo  
*Presentations and Q & A session*  
*Mahlet Teshome, African Union Commission*  
*Pierre du Plessies, Namibia*  
*Peter Munyi, ABS Capacity Development Initiative*

15h30      Coffee Break

## **Update on ABS related Processes in the FAO Arena**

16h00      Commission on Genetic Resources on Food and Agriculture  
*Presentation and Q & A session*  
*Morten Walløe Tvedt, Fridtjof Nansen Institute, Norway*

## **Introduction to the Field Trip**

16h30      South Africa's Legislative Framework on Bioprospecting, Access and Benefit Sharing  
*Presentation and Q&A session*  
*Lactitia Tshitwamulomoni, South African Department of Environmental Affairs*

Benefit Sharing through Scientific Innovation and Traditional Knowledge  
*Presentation and Q&A*  
*Dr Vinesh Maharaj, South African Council for Scientific and Industrial Research*

17h30      End of day

## **Welcome Reception organised by the South African Minister of Water and Environmental Affairs**

## **Tuesday , February 26<sup>th</sup>**

### **Field Trip**

8h30      Departure for the Filed Trip – the *Lippia javanica* Case

9h30      Site Visit to the *Lippia javanica* Cultivation, Distillation and Oil-Extraction Community-Based Project in Giyani, Limpopo

13h00      Lunch

14h00	<p>Panel Discussion</p> <p><i>moderated by Suhel al-Janabi, ABS Capacity Development Initiative</i></p> <ul style="list-style-type: none"> <li>• <i>Seth Seroka, Traditional Healer &amp; Chair of the National Traditional Healers Committee</i></li> <li>• <i>Dr Vinesh Maharaj, Council for Scientific and Industrial research, CSIR</i></li> <li>• <i>Dr. Marthinus Horak, CSIR</i></li> <li>• <i>Sem, Foreman cultivation and production site, Giyani community</i></li> <li>• <i>Lactitia Tshitwamulomoni, South African Department of Environmental Affairs</i></li> <li>• <i>Carina Malherbe, South African Department of Environmental Affairs</i></li> </ul>
18h00	Visit to the Marula processing plant Amarula Lapa
19h30	Return to Phalaborwa
20h00	End of day

### **Wednesday, February 27<sup>th</sup>**

#### **Field Trip (Cont.)**

8h00	<p>Reflection on Field Trip</p> <p><i>Group work and discussion guided by Moderation Team</i></p>
9h30	Coffee Break

#### **Traditional Knowledge: Documentation, Valorisation and Compliance**

10h00	<p>Report back from the visit to the Indian Traditional Knowledge Digital Library</p> <p><i>Presentation</i></p> <p><i>Lazarus Kairabeb, Nama Traditional Leaders Association Namibia</i></p> <p>The National Reporting System of South Africa</p> <p><i>Presentation</i></p> <p><i>Carol van Wyk, South African Department of Science and Technology</i></p> <p>Traditional Knowledge Commons</p> <p><i>Gino Cocchiaro, Natural Justice, South Africa</i></p>
11h30	Coffee break

#### **Traditional Knowledge: Documentation, Valorisation and Compliance (Cont.)**

13h00	<p>Panel Discussion</p> <p><i>moderated by Barbara Lassen, ABS Capacity Development Initiative</i></p> <p><i>Lazarus Kairabeb, Nama Traditional Leaders Association Namibia</i></p>
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*Rodney Sibuye, Kukula Traditional Health Practitioners Bushbuckridge*  
*Tom Suchanandan, South African Department of Science and Technology*  
*Carol van Wyk, South African Department of Science and Technology*  
*Gino Cocchiaro, Natural Justice, South Africa*

14h30      Coffee Break

### **Thematic Sessions**

15h00      Announcements for Thematic Sessions  
*Methodological introduction to thematic sessions:*  
*Six thematic sessions will be offered in parallel in French and English th out of 6 Sessions.*

1. Interface between the Nagoya Protocol and Protected Areas
2. Research and Development, Business-sharing Models and Interface between Biotrade/ABS
3. Simplified Access for Basic Research
4. Compliance in Africa
5. Biocultural Community Protocols
6. Interface ITPGRFA and Nagoya Protocol

16h00      End of Day

### **Evening Game Drive (Optional)**

### **Thursday , February 28<sup>th</sup>**

### **Thematic Sessions (Cont.)**

9h00      Thematic Session Slot 1

10h30      Coffee Break

11h00      Thematic Session Slot 2

12h30      Lunch

14h00      Thematic Session Slot 3

15h30      Coffee Break

16h00      Thematic Session Slot 4

17h30      End of Day

## Side Event

- 19h30      The European Union Draft Regulation on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union  
*Søren Mark Jensen, Danish Ministry of the Environment*

## **Friday , March 1<sup>st</sup>**

### **Thematic Sessions (Cont.)**

- 9h00      Report back from Thematic Sessions  
*Presentation and discussion*

### **AU Guidelines for a Coordinated Implementation of the Nagoya Protocol (Cont.)**

- 9h45      Reflection on African Union Guidelines and Way Forward  
*Mahlet Teshome, African Union Commission*  
*Drafting Team*
- 10h30      Coordination of the African Group on the process for finalizing the AU Guidelines and preparing for the Art. 10 intersessional process (closed session)
- Coffee break

### **ABS Initiative: Communication & Knowledge Management and Way Forward**

- 12h00      CEPA for ABS  
*Presentation and discussion*  
*Tobias Dierks and Suhel al-Janabi, ABS Capacity Development Initiative*
- 12h30      Lunch

### **ABS Initiative: Communication & Knowledge Management and Way Forward (Cont.)**

- 14h00      Road Map ABS Initiative: Quo Vadis 2013  
*Presentation and Q&A session*  
*Andreas Drews, ABS Capacity Development Initiative*
- Evaluation*  
*Moderation Team*
- Closure*  
*Suhel al-Janabi, ABS Capacity Development Initiative*  
*Moscow Marumo, South African Department of Environmental Affairs*
- 16h00      End of Workshop

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