

COURSE MANUAL AND RESOURCE BOOK

TRAINING COURSE IN
Access and Benefit Sharing
from Genetic Resources and
Associated Traditional Knowledge

4–8 February 2013
Gaborone, Botswana

Prepared by:

The Environmental Evaluation Unit, University of Cape Town
In collaboration with the ABS Capacity Development Initiative

Access and
Benefit
Sharing

The ABS Capacity Development Initiative



Environmental Evaluation
Unit



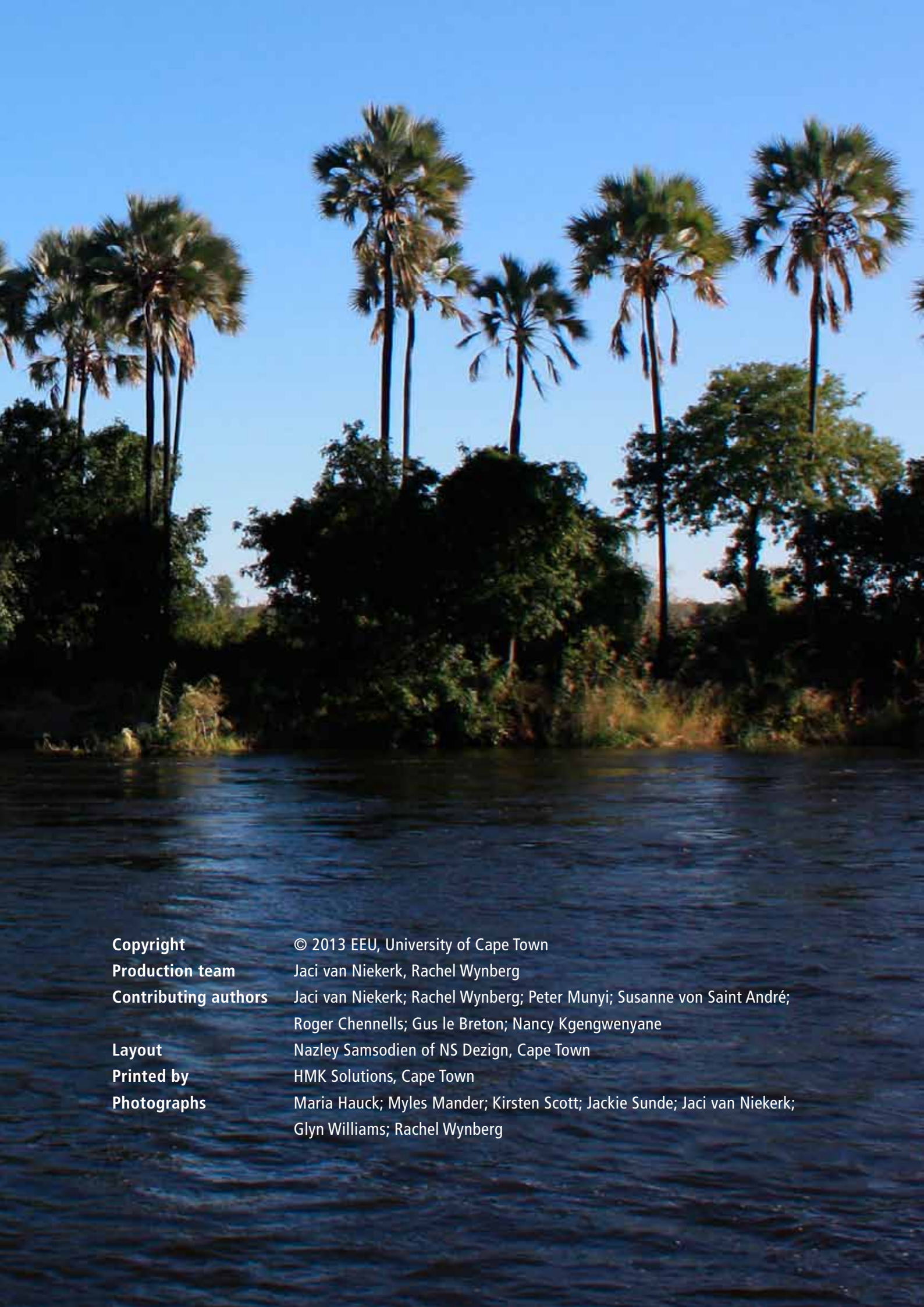


Access and Benefit Sharing from Genetic Resources and Associated Traditional Knowledge

Course manual and resource book for a training course in access and benefit sharing. The views and interpretations in this publication are those of the various contributors and are not attributable to the ABS Capacity Development Initiative or the University of Cape Town.

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Financial support for this project was provided by the ABS Capacity Development Initiative.



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Printed by

HMK Solutions, Cape Town

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Foreword

ABS – THREE LETTERS FOR DEVELOPMENT

The global transfer of natural resources is at the basis of human development. For centuries, societies have transferred and traded biological and genetic resources. In doing so, they have drawn on the indigenous knowledge related to using these resources: coffee beans and aloes are just two historical examples. Today, the pharmaceutical, cosmetic, horticultural and many other industries continue to search globally for genetic resources for use in product development. The gains and benefits arising from those transfers, however, are hardly ever shared with the communities of origin. Until recently, developing countries had no recourse to ensure that the use of their resources, traditional knowledge and cultural practices could be recompensed.

The access and benefit-sharing principle of the Convention on Biological Diversity (CBD) provides development opportunities in this regard. It is the third objective of the Convention which is aimed at 'regulating access to genetic resources and ensuring the fair and equitable sharing of benefits arising out of their utilisation'. In a nutshell, this means that where genetic resources are used for scientific or commercial purposes, the country of origin is to benefit from this use. The 'Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity' (Nagoya Protocol), which was adopted at the 10th Conference of the Parties to the CBD in 2010, enters into force 90 days after its fiftieth ratification. As of end of November 2012 nine countries had ratified the Protocol, including Ethiopia, Gabon, Rwanda and the Seychelles. Other African countries, among them Namibia and South Africa, are expected to deposit their instruments of ratification in the coming months at the United Nations. The Nagoya Protocol provides for a legally binding global framework for its Parties to implement ABS provisions of the CBD at the national level, thus the third objective of the CBD will be brought into reality through the setting up of the required governance structures and processes.

The overall objectives of the ABS framework are to:

- ❖ Generate benefits for poverty alleviation and nature conservation
- ❖ Support capacity development by transferring technologies, knowledge and skills
- ❖ Enhance social development
- ❖ Ensure accountability and good governance at all levels

Awareness of the contribution ABS can make to development and poverty alleviation in Africa is growing slowly at all levels, yet skills to harness this potential remain insufficiently developed.

For example, many actors at the political-administrative level are not aware of the development potential of ABS for Africa. There are barely any functioning national ABS regulations in place, and there are problems in implementing them if regulations exist at all. There is minimal dialogue between stakeholders, and as a result there is little awareness of their mutual (and often common) interests. There is hardly any regional harmonisation of approaches; inventories and information on the value of genetic resources are not available; and negotiation skills are not sufficiently developed. These factors are hampering the capacity of developing countries to develop and implement national regulations for the benefit of their people.

The establishment of the ABS Capacity Development Initiative is a direct response to these challenges. The Initiative aims to bring different ABS stakeholders together for the purpose of negotiating agreements and for supporting them in developing the capacities and skills that are necessary to achieve mutually satisfactory outcomes. These include training in communication and negotiation skills; sharing knowledge, information and best practice; and developing joint positions and statements for the international ABS process.

This particular training course is focused on western and southern African countries and addresses directly the acute capacity constraints for implementing ABS at the regional and national level. The course contents are based on similar courses which were held in 2010 in Cape Town and in 2011 at Strathmore University in Nairobi. The course incorporates evaluation feedback received at those courses, and has been adapted to address ABS implementation experiences in the western and southern African regions. The material has been developed by the Environmental Evaluation Unit of the University of Cape Town in close cooperation with the ABS Capacity Development Initiative.

The training course will broaden the base of professionals who are familiar with ABS issues and enable them to be better prepared to face the various implementation challenges at national and regional level.



Andreas Drews

Manager, ABS Capacity Development Initiative

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

Acknowledgements

The production of this manual and the course which it accompanies would not have been possible without the generous financial support of the ABS Capacity Development Initiative.

This training manual has evolved over the past three years but its original template was the 'Training of the Trainers and Resource Manual on Access and Benefit Sharing from Genetic Resources and Associated Traditional Knowledge' (2009), prepared by the International Centre for Integrated Mountain Development (ICIMOD) in Kathmandu. Warm thanks are extended to Krishna Prasad Oli and Tara Devi Dhakal for their permission to use this material.

We also wish to thank the instructors who shared their knowledge, made time in their busy schedules to write summaries for inclusion in the manual, and presented on their work during the training programme – thereby making an invaluable contribution to strengthening capacity for implementing ABS on the African continent.

Acronyms and Abbreviations

ABS	access and benefit sharing
ARIPO	African Regional Intellectual Property Organization
ATS	Antarctic Treaty System
BGCI	Botanic Gardens Conservation International
CBD	Convention on Biological Diversity
CBNRM	Community Based Natural Resource Management
CBO	community based organisation
CGRFA	Commission on Genetic Resources for Food and Agriculture
COP	Conference of the Parties
DNA	deoxyribonucleic acid
EEU	Environmental Evaluation Unit
EITI	Extractive Industries Transparency Initiative
EMCA	Environmental Management and Coordination Act (Kenya)
EPA	Environmental Protection Agency (Liberia)
EPO	European Patent Office
FAO	Food and Agriculture Organization
FDA	Forest Development Authority (Liberia)
FDEA	Swiss Federal Department for Economic Affairs
FLO	Fairtrade Labelling Organization International
GIZ	German Agency for International Cooperation
GMO	Genetically Modified Organism
ICIMOD	International Centre for Integrated Mountain Development
IFPMA	International Federation of Pharmaceutical Manufacturers and Associations
IGC	WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
IIED	International Institute for Environment and Development
ILO	International Labour Organization
ING	Interregional Negotiating Group
IPEN	International Plant Exchange Network
IPR	intellectual property right
ISE	International Society of Ethnobiology
ISSC-MAP	International Standard for Sustainable Wild Collection of Medicinal and Aromatic Plants
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
IUCN	The World Conservation Union
LEITI	Liberian Extractive Industries Transparency Initiative
MAP	medicinal and aromatic plants
MAT	mutually agreed terms
MOSAIICC	Microorganisms Sustainable Use and Access Regulation
MTA	material transfer agreement
NGO	non-governmental organisation
NEMA	National Environmental Management Authority (Kenya)
OAPI	African Intellectual Property Organization

OAU	Organization of African Unity
PBR	Plant Breeder's Right
PES	Payment for Ecosystem Services
PGRFA	Plant Genetic Resources for Food and Agriculture
PIC	prior informed consent
PVP	Plant Variety Protection
R&D	research and development
REDD	Reduced Emissions from Deforestation and Forest Degradation
RNA	ribonucleic acid
SfAA	Society for Applied Anthropology
SMTA	Standard Material Transfer Agreement
STMT	Sankuyo Tshwaraganang Management Trust
TEG	technical expert group
TK	traditional knowledge
TRIPS	Trade Related Aspects of Intellectual Property Rights
UCT	University of Cape Town
UEBT	Union for Ethical Biotrader
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forests
UPOV	International Union for the Protection of New Varieties of Plants
VPR&D	Veld Products Research and Development
WG 8(j)	Working Group on Article 8(j)
WGABS	Working Group on Access and Benefit Sharing
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

Introduction

This manual has been developed by the Environmental Evaluation Unit, based at the University of Cape Town, with support from the ABS Capacity Development Initiative. The manual is designed to accompany a course aimed at strengthening capacity in access and benefit sharing (ABS) implementation on the African continent, but also functions as a resource book.

Considerable attention has been placed on access and benefit sharing from the utilisation of genetic resources since the inception of the Convention on Biological Diversity (CBD) in 1992. However, due to the complex nature of ABS which combines aspects of science, conservation, trade, and legal elements – touching on a wide range of controversial and difficult issues – its practical implementation clearly presents a substantial challenge.

Those responsible for implementing ABS in Africa are faced by further constraints. The continent is home to a diverse and unique range of biodiversity and rich repositories of associated traditional knowledge (TK), both of which attract high levels of bioprospecting. However, with other urgent needs on the agenda such as spiralling poverty levels, environmental degradation and lack of infrastructural development, African nations are already hampered by limited technical capacity and find it demanding to also deal with the complexities of ABS in a constructive manner.

This manual has been prepared in order to strengthen the knowledge base of those responsible for implementing ABS in Africa – including policy-makers, parliamentarians, legislators, government officials, NGOs, CBOs, national and international research institutions, as well as the private sector. Through this manual and the course, members of these groups will be exposed to practical experiences relating to bioprospecting and the diversity of sectors involved in ABS. Participants will also be provided with a suite of tools that can be used *inter alia*, to negotiate, develop and implement ABS agreements, policies and laws in their respective countries as well as track and monitor the use of genetic resources and TK. Furthermore, it is envisioned that the course which this manual accompanies will contribute towards the development of an extensive African ABS network and strengthened regional cooperation on ABS issues.

Reader's Guide

This manual is divided into five sections – each representing one day of the course. Each section is divided into a number of sessions. An introductory section indicates the duration, structure, instructor, and objectives of the session, and also lists key references. Each session consists of a summary or background information relating to the topic being presented and where appropriate, case studies are included and a list of additional resources is given. The key references, additional resources as well as other useful material such as codes of conduct and articles on ABS are included on a CD which can be found at the back of the manual.

Seminars will be complemented by group work and discussion sessions as deemed fit by the presenter. When necessary, instructions for activities will be handed out separately.

Towards the end of the manual, information regarding the contributors and additional resources such as a glossary of terms, lists of the supplementary reading material contained in the CD and useful websites can be found.

At the close of each day, participants will be required to take a short multiple choice test based on the day's presentations and key readings. Full attendance of the course and completion of these tests are requirements to be met in order to qualify for a certificate.

Participants will also be asked to evaluate each of the sessions at the end of the day and a follow-up evaluation of the entire course will be performed via a questionnaire six months after the course.

Enjoy the course!

The Core Team

Training Programme

TIME	SESSION OUTLINE	INSTRUCTOR/CONVENOR
MONDAY 4 FEBRUARY 2013		
8:00	Registration	
8:30	SESSION 1: Welcome, Introductions, Training Objectives	Core team
9:00	SESSION 2: ABS in Context	Rachel Wynberg
10:30	TEA	
11:00	SESSION 3: The ABC of ABS	Core team
12:30	LUNCH	
13:30	SESSION 4: Mapping International Frameworks for ABS	Peter Munyi
14:00	SESSION 5: The Nagoya Protocol	Peter Munyi
15:00	TEA	
15:30	SESSION 5: Continues	
16:30	The ABS Race	
17:00	Closure	
18:30	WELCOME COCKTAIL	
TUESDAY 5 FEBRUARY 2013		
8:30	Recap of Day 1, Housekeeping issues	
9:00	SESSION 6: ABS Policies and National Laws in Africa	Peter Munyi, Rachel Wynberg
10:00	TEA	
10:30	SESSION 7: Agriculture and ABS	Peter Munyi, Rachel Wynberg
12:30	LUNCH	
13:30	SESSION 8: Tools to Engage in the ABS Process	Roger Chennells, Rachel Wynberg
15:00	TEA	
15:30	SESSION 9: Negotiation	Roger Chennells
16:15	The ABS Race	
16:45	Closure	
WEDNESDAY 6 FEBRUARY 2013		
8:30	SESSION 10: Field Trip to WildFoods, Gabane and Marula Harvesters at Ramaphatle	Core team and local partner
12:30	LUNCH	
13:30	Field Trip continues	

THURSDAY 7 FEBRUARY 2013		
8:30	Recap of Day 2 and 3, Housekeeping issues	
9:00	SESSION 11: Understanding the Bioprospecting Process and Industry	Rachel Wynberg
10:30	TEA	
11:00	SESSION 12: Benefit Sharing and Biotrade	Gus le Breton
13:00	LUNCH	
14:00	SESSION 13: Traditional Knowledge	Core team
15:00	TEA	
15:30	SESSION 13: Continues	
16:40	The ABS Race	
17:00	Closure	
19:00	COURSE DINNER	
FRIDAY 8 FEBRUARY 2013		
8:30	Recap of Day 4, Housekeeping issues	
9:00	SESSION 14: Intellectual Property Rights	Nancy Kgengwenyane, Roger Chennells
10:30	TEA	
11:00	SESSION 14: Continues	
12:30	LUNCH	
13:30	SESSION 15: Biopiracy, Rights and Benefits	Rachel Wynberg
15:00	The ABS Race	
15:30	TEA	
16:00	SESSION 16: The Way Forward	Core team
16:30	SESSION 17: Course Evaluation and Wrap Up	Core team
17:30	Closure	