



The Nagoya Protocol

The Nagoya Protocol provides a global framework for implementing the 3rd objective of the Convention on Biological Diversity (CBD): the fair and equitable sharing of benefits arising from the utilization of genetic resources. It stipulates that prior informed consent (PIC) of the providing country is a prerequisite for granting access to genetic resources. PIC goes hand-in-hand with mutually agreed terms (MAT) between a provider and a user. MAT are contracts establishing the conditions of access and utilization of the resources and the benefits to be shared by both parties. The Protocol encourages countries to involve indigenous peoples and local communities (IPLC) as custodians of genetic resources and holders of traditional knowledge in the PIC/MAT process in accordance with domestic law. Compliance provisions in combination with the ABS Clearing-house (ABS-CH) are key novel elements of the Nagoya Protocol with two aims:

- ➔ to prevent misappropriation of genetic resources including associated traditional knowledge and
- ➔ to ensure that benefit sharing agreements are actually enforced.

The compliance provisions of the Nagoya Protocol on ABS

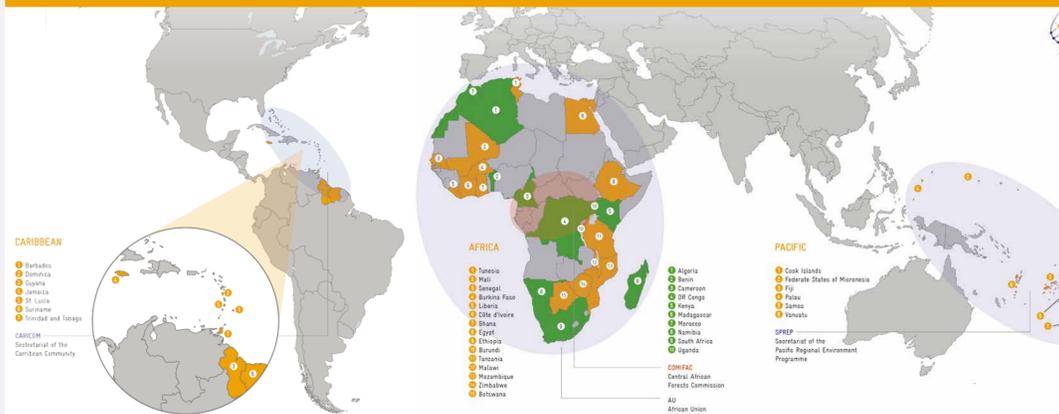


The ABS Initiative

The ABS Capacity Development Initiative is a multi-donor Initiative which is implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. It was established in 2006 to primarily support the African Group in the negotiation of the Nagoya Protocol. After the entry into force of the Protocol in 2014, the focus of the Initiative has shifted towards its implementation on the national level.

Regional activities concerning the Caribbean and Pacific countries have been added to the portfolio. While the Initiative is generally supporting all members of the African, Caribbean and Pacific (ACP) Group of States, the emphasis of the current phase is on selected African partner countries. Lessons learned will inform developments in other countries.

The tri-regional approach of the ABS Capacity Development initiative



Genetic resources and their active ingredients are being widely used in pharmaceuticals, cosmetics, functional foods, biotechnology and other sectors. Africa and tropical regions worldwide are hotspots for biodiversity and thus bear an immense potential for ongoing and future research on genetic resources.

Beneficiaries and benefits

In general, all ABS relevant stakeholders may benefit from the Initiative. Among them are:

- ➔ Decision makers and legislators > information about ABS policy options and legal implications/technical requirements when translating the Nagoya Protocol into national context
- ➔ National ABS authorities > technical training courses on i.a. processing access applications, issuing permits and facilitating ABS partnerships
- ➔ IPLC > back-up for responding to requests for access to their genetic resources and associated traditional knowledge, e.g. through BCPs
- ➔ Small- and medium-sized enterprises (SMEs), cooperatives, universities and research centers in provider countries > conceptual, technical and legal advice for an adequate participation in ABS compliant research cooperation and value chain development
- ➔ Users > familiarization with domestic regulatory contexts, relevant governmental and non-governmental actors and national particularities, including options of Public-Private-Partnerships

Tools used by the ABS Initiative

In order to support national implementation processes, regional per-to-peer exchanges and up-scaling processes, the ABS Initiative is working with tools such as:

- ➔ Regional trainings and workshops for exchange and harmonization
- ➔ Policy papers ensuring the interface between national activities and international processes
- ➔ Documentation of processes and review of lessons learned
- ➔ Studies and assessments to support decision making processes
- ➔ Conceptual approaches (e.g. interplay of the Nagoya Protocol and the International Treaty on Plant Genetic Resource for Food and Agriculture - ITPGRFA)
- ➔ Management and dissemination tools to compile and disseminate knowledge on ABS (e.g. ABS Initiative website and weekly ABS News Digest)
- ➔ Innovative formats of capacity development (e.g. basic ABS training for national focal points, training course on building legal ABS frameworks for lawyers, multi-stakeholder strategy workshops)
- ➔ Communication tools (e.g. videos to explain ABS and standard presentations, ABS-CEPA [Communication, Education and Public Awareness] Guide and fact sheets on the ABS relevant industrial sectors)

Partners of the ABS Initiative

- ➔ African Union Commission
- ➔ Bioversity International
- ➔ BMZ funded bilateral projects and programmes
- ➔ Secretariat of the Caribbean Community and Common Market (CARICOM)
- ➔ Central African Forests Commission (COMIFAC)
- ➔ Center for International Sustainable Development Law (CISDL)
- ➔ Fridtjof Nansen Institute (FNI)
- ➔ Global Environment Facility (GEF)
- ➔ GEF Small Grants Programme (SGP)
- ➔ International Development Law Organization (IDLO)
- ➔ International Treaty on Plant Genetic Resource for Food and Agriculture (ITPGRFA)
- ➔ International Union for the Conservation of Nature (IUCN)
- ➔ Natural Justice
- ➔ PhytoTrade Africa
- ➔ Southern African Development Community (SADC)
- ➔ Secretariat of the Convention on Biological Diversity (SCBD)
- ➔ Secretariat of the Pacific Regional Environment Programme (SPREP)
- ➔ Union for Ethical Biotrade (UEBT)
- ➔ United Nations Development Programme (UNDP)
- ➔ United Nations Environment Programme (UNEP)
- ➔ University of Cape Town

What the ABS Initiative offers

The guiding principle behind all activities of the ABS Initiative is knowledge generation and knowledge management with the goal to make these experiences available for regional up-scaling processes. The ABS Initiative draws on expertise and networks rooted in over a decade of experience with ABS. It has developed tools and approaches that are used by ABS stakeholders globally. The Nagoya Protocol implementation is addressed by supporting three core processes: developing and revising ABS legislative and regulatory frameworks, negotiating fair and equitable ABS agreements and effectively integrating IPLC in respective negotiation processes.

The three core processes of the ABS Initiative



Examples of Services within the three core processes

ABS legislative and regulatory frameworks

- ➔ Elaboration of stakeholder maps
- ➔ Tailored ABS awareness raising
- ➔ Setting up of national dialogue and exchange fora with ABS stakeholders
- ➔ Analysis of existing regulatory frameworks linked with ABS
- ➔ Guidance on developing and implementing national institutional and legislative ABS frameworks, including permitting systems and administrative processes

Negotiating fair and equitable ABS agreements

- ➔ National analysis of existing patents linked to genetic resources
- ➔ National analysis of existing research collaborations linked to genetic resources
- ➔ Identification of cooperation partners and innovation opportunities leading to ABS agreements
- ➔ Match-making with private sector companies interested in genetic resources
- ➔ Awareness raising on ABS for involved IPLC, academia, private sector, public administration, policy makers etc.
- ➔ Facilitation of negotiations



Videos, studies, guides and communication toolkits – these are just a few outreach instruments of the ABS Initiative. They are used to draw attention to ABS and strategically involve relevant stakeholders in the implementation of the Nagoya Protocol. – Awareness raising on bio-prospection in the field, in Antsirana (Diego Suarez), Madagascar.

Effectively integrating IPLC

- ➔ Awareness raising on ABS for involved IPLC
- ➔ Facilitation of mutual understanding between user and provider
- ➔ BCPs (see box XXX)
- ➔ Trainings on the negotiation of MAT clauses
- ➔ Extraction of lessons learned from practical cases to inform the development of regulatory frameworks on the national level



Before entering into ABS negotiations indigenous peoples and local communities (IPLC) must be made aware of their rights. Creating Bio-cultural Community Protocols (BCPs) allows them to reflect on their values and lifestyle and linkages to the legal and political environments. In the process, IPLCs develop a joint understanding of their rights amidst the tension between customary and formal law. – Participants of a workshop on ABS for IPLCs, organized by the ABS Initiative in Namibia (November 2014)

CONTACT

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