

THE **ABS**
CAPACITY
DEVELOPMENT
INITIATIVE



L'INITIATIVE DE
RENFORCEMENT
DES CAPACITES
POUR L'**APA**

Minutes of the Meeting of the African Steering Committee 2016

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Participants

Members of the Steering Committee:

Boukar Attari, CNEDD, Niger
Samuel Diemé, Direction des Parcs Nationaux, Senegal
Natalie Feltman, DEA, South Africa
Bente Herstad, NORAD, Norway
Marianna Knirsch, BMZ, Germany
Lucy Mullenkei, Indigenous Information Network (IIN)
Chouaibou Nchoutpouen, COMIFAC
Jean Pierre Ndoutoum, IFDD, Canada
Valerie Normand, SCBD
Pierre du Plessis, CRIAA-SADC
Claudine Ramiarison, Madagascar
Kauna Schroder, MET, Namibia
Arona Soumare, IFDD, Canada

Secretariat of the Initiative:

Suhel al-Janabi
Eva Fenster (minutes)
Nadine Pauly

Observers:

Jiri Hlavacek, UNEP
Tobias Kiene, FAO
Barbara Lassen, Natural Justice
Rik Kutsch Lojenga, UEBT
Cyril Lombard, Phytotrade Africa
Frederic Perron-Welch, CISDL
Morten Walløe Tvedt, FNI

Welcome and Introduction

Marianna Knirsch (BMZ) welcomed everyone as the chair of the meeting and gave the floor to Jean Pierre Ndoutoum (IFDD) who delivered a welcome speech on behalf of the International Organisation of the Francophonie. He highlighted the longstanding collaboration of his organization with the ABS Initiative and emphasized the continued collaboration to support the implementation of the Nagoya Protocol in Francophone countries. Apologies were conveyed on behalf of those members that were not able to attend the meeting and a message on behalf of the Danish Ministry of Environment was read out loud.

After an introduction of the participants, the meeting agenda was adopted.

Progress Report 2015

Suhel al-Janabi provided an overview of the Initiative's activities, process and achievements in Africa in 2015 and early 2016 (enclosed presentation "From Addis to Paris" – for more details, see Progress Report 2015). He highlighted that the Initiative is in its current phase providing more targeted support at national level, based on internal and external evaluations from 2012-2015. In addition, a brief snapshot of activities conducted in the Caribbean and Pacific region was presented.

In the subsequent discussion, the following amendments to the Progress Report were suggested:

- In the executive summary, reference should be made to **pilot BCP activities in Madagascar** as well as to the **Strategic Framework for Capacity-Building**
- It should be flagged that the **Initiative also supports countries that have made little progress in terms of ABS implementation** (i.e. cooperation countries), Chapter 2
- It should be clarified that the Namibian **Ministry of Environment and Tourism (MET) had co-financed ABS activities in Namibia** (e.g. the country team workshop on IPR for IPLCs, country diagnostics), Chapter 3
- In the figure depicting donor commitments, **€ 0.5 Million future commitment still lacking financing agreement by BMZ annually for the time period 2018-2020** should be inserted (in ruled pattern), Chapter 3
- Reference should be made to the **Letter of Intent** on collaboration around common activity clusters signed between the Initiative and the African Union Commission, Chapter 7.3
- **Challenges encountered and ways to overcome obstacles** should be included in the report as well as information regarding **African ownership and the participation of African stakeholders in international meetings**, as decided at last SC meeting

After examining the Progress Report, the SC members highlighted the **necessity for further knowledge generation and dissemination. In a first step, this should include in particular documenting and analyzing substantive / procedural good practices and lessons learnt in partner countries.** In light of the unstable funding situation, donor representatives welcomed that the Initiative provides ABS support based on funds / assignments received GIZ-implemented national ABS projects. The Secretariat emphasized that the **Initiative's unique selling point is not to provide funds** (GEF can do that) **but procedural advice and technical / legal expertise.** Interfaces with implementing / executing agencies are to be further developed in order to allow the Initiative to support all activities envisaged and to avoid double support at country level. Further, it was agreed that **no additional countries will be added to the list of partner countries** at this stage.

The Progress Report was adopted with the stated amendments¹.

The Secretariat will circulate the amended Progress Report among the SC members before Easter. The amended version will be adopted via silent procedure and is to be published on the Initiative's website.

Status of implementation of the Nagoya Protocol on ABS

Valérie Normand (SCBD) presented on the status of ratifications and implementation of the Nagoya Protocol (NP) on ABS. As of 22 February 2016, 72 CBD parties have ratified the NP, with African

¹ In addition, several sentences in the Progress Report will be reworded following the discussions in the SC.

countries being the largest regional group. Looking at actual implementation, many countries are currently developing or reviewing ABS measures. She also referred to the key role of the ABS Clearing House (ABSCH) in supporting NP implementation, emphasizing that the ABSCH currently does not give an accurate picture of implementation and that the onus is on governments and partners to provide information. She also gave a brief overview of the SCBD capacity building activities in 2015-2016 and referred to the role of the Informal Advisory Committee and the Strategic Framework for Capacity-Building to support the implementation of the Nagoya Protocol.

The subsequent discussion highlighted that:

- **The Compliance Committee** has a potential role to play in helping Parties to comply with their obligation to provide and update the information on the ABSCH; additional measures to ensure information-exchange need to be explored (e.g. monitoring, identifying a publishing authority)
- Implementation also has to be informed by the **needs of users** (minimum certainty regarding legislation, institutions, etc.), who are more eager to comply with Nagoya Protocol obligations following the entry into force of the EU ABS regulations; a **system of dialogue between users and providers** needs to be supported
- **Enhancing synergies and building cooperation between MEAs** may be helpful to advance NP implementation
- The need for **close collaboration between the SCBD and the ABS Initiative** was reaffirmed, particularly with respect to the **development of tools and instruments**.

Country diagnostics with respect to the core processes of the ABS Initiative

Suhel al-Janabi, supported by other members and partners of the ABS Initiative, presented the **objective and methodological approach** of the country diagnostics, **key findings at country level** and **the way forward** (see enclosed presentation “*Country Diagnostics*” for further details). He pointed to the considerable **diversity of ABS related processes** at country level and highlighted the resulting **high potential for knowledge transfer** at regional level.

In the ensuing discussion, the following key issues were considered:

- There is a need for **documenting and analyzing substantive / procedural good practices & lessons learnt in partner countries**
- Due to limited resources, **effective transfer mechanisms for knowledge dissemination** (e.g. documentation, publications) need to be further explored
- **Promoting South-South exchange** can be of great value, also with a view to sharing experiences at regional level
- In order to deliver proof of principle by 2020, the Initiative was advised to **focus its support on a selected number of ABS pilot cases / value chains**; a **coherent strategy** is required in order to be able to deliver ABS compliant value chains
- Working on **value chain development with partners / through other projects** is recommended in light of decreasing donor commitments
- The Initiative is to **further support African cooperation countries (“balanced approach”)**

Overview reports of the country diagnostics will be shared with the SCBD and put on the Initiative's website after approval and with consent by partner countries. Questionnaires of country diagnostics may be shared with SC members upon request (confidential information may need to be erased).

Finalizing the outcome indicators: qualitative and quantitative aspects

A substantive discussion took place about quantitative and qualitative aspects of the first three outcome indicators in the results matrix of the Programme Document 2015-2020. The objective was to reach a common understanding on the outcome indicators, their quantifiability and their respective minimum standards and meanings and thus to provide a solid basis for the Initiative to report against the indicators.

A discussion paper was circulated in advance to the SC members (see “*Defining outcome indicators of the ABS Initiative's Programme Document 2015-2020*”).

Suhel al-Janabi presented the **current description of the first three outcome indicators**² as reflected in the programme document and gave a brief **overview of ABS relevant outcome indicators of GIZ supported projects** in Algeria, Madagascar and COMIFAC based on the respective projects' operational planning and work packages (see presentation “*Attribution and Definition of Indicators*”).

Based on the proposal of the Secretariat, the SC agreed that:

- **the outcome indicators of the ABS Initiative will only count achievements in non-GIZ supported countries**³ (due to limited influence of the Initiative in steering / managing ABS capacity development processes in countries where the Initiative works on the basis of GIZ internal job orders)
- **ABS related achievements in German DC supported countries will be reported against ABS relevant outcome indicators defined by the GIZ implemented projects**⁴, in particular on those that are similar / comparable with the Initiative's indicators
- **Achievements from the “flexible” budget** (cooperation countries) **are to be flagged in narrative reports**, but will not be attributed to the outcome indicators

Detailed reporting on progress made in countries supported by the Initiative (partner countries) is to be made available to other African countries (cooperation countries) for up scaling and to support exchange learning; e.g. through feedback into the Pan-African workshop and knowledge sharing formats.

Concerning **what (and what not) to account for in the results matrix with respect to legal and institutional frameworks, ABS agreements and BCPs**, the SC agreed that:

Outcome indicator 1 counts the number of drafts submitted by ABS National Focal Points / Competent National Authorities to relevant decision makers for institutional and legal ABS frameworks at national level.

² Outcome indicators are binding for the project implementation phase (as agreed upon with BMZ) while outputs and indicators at the output level may be changed by decision of the SC.

³ Benin, Kenya, South Africa, Uganda

⁴ Algeria, Madagascar, Morocco, Namibia and COMIFAC – Cameroon, DRC)

- ✓ The **baseline** will ascertain pre-and post Nagoya drafts in the four (non GIZ supported) partner countries⁵ whereas the **target for outcome indicator 1** will count post-Nagoya drafts in partner countries. Here the target now reads: **in 4 (non GIZ supported) partner countries [...] drafts** [...] have been submitted. Further, it was clarified that separate drafts for the institutional and legal framework in a particular country will be counted as one draft.

Outcome indicators 2 and 3 count the number of ABS agreements in the four (non GIZ supported) partner countries which can be attributed to the support for capacity development provided by the Initiative and its partners to the various stakeholders.

- ✓ It was agreed that only ABS agreements
 - **with a benefit-sharing component**
 - that have been **supported by the Initiative and its partners**
 - and that are in **accordance with national regulations or a defined process and / or approved by a Competent National Authority** (which is defined in nat. regulations or a defined process) will count.

- ✓ Based on discussions in the SC, outcome indicators 2 and 3 will not be quantified with a baseline figure. The target for outcome indicator 2 now reads: **+ 10 ABS agreements in the 4 partner countries**⁶; the target for outcome indicator 3 now reads: **+7 ABS agreements in the 4 (non GIZ supported) countries**⁷.

The **qualifiers to outcome indicator 3**⁸ proposed by the Secretariat were accepted by the SC after a debate on the possible characteristics of *Biocultural Protocols* and *comparable instruments*. After deliberations among the SC members, it was agreed that the **process of involvement of IPLCs** (re indicator 3) as well as the **quality of ABS agreements** (re indicator 2 and 3) are to be addressed in narrative reporting.

Based on the results of this discussion in the SC, the Secretariat will provide an addendum to the revised Progress Report 2015 against the outcome indicators for the 4 partner countries and the projects' ABS relevant indicators for the countries with GIZ implemented projects.

Workplan and indicative budget 04/2016 – 03/2017

An overview of the work plan and the indicative budget allocations for the timeframe 04/2016 – 03/2017 was presented by Suhel al-Janabi (see enclosed *Work Plan* for further details). The following points and amendments were discussed:

- **Knowledge generation**

As key characteristics of the ABS Initiative are the development of conceptual approaches and compilation / exchange of experiences **more resources** (human and financial) need to be allocated

⁵ Legal and institutional ABS frameworks/enacted bills are existing in 3 countries: Kenya; Uganda, South Africa. So far only South Africa has developed a (revised) regulation in the “post-Nagoya” period.

⁶ based on the following target figure assumption: in Benin: +1; in Kenya: +3 ; in Uganda: +1 ; in South Africa: +5 ABS agreements supported by the ABS Initiative and its partners

⁷ based on the following target figure assumption: Benin +1 expected ; Kenya + 2; Uganda +1; South Africa +3 agreements with IPLCs (based on BCPs or comparable instruments) supported by the ABS Initiative and its partners

⁸ See question a and b on outcome indicator 3 in document “Defining outcome indicators of the ABS Initiative’s Programme Document 2015-2020”

to **knowledge generation, incl. for monitoring, analyzing and synthesizing the results of the country diagnostics**⁹. The GIZ progress monitoring tool, currently under adaptation, may be used for monitoring purposes.

The Secretariat agreed to integrate knowledge generation more explicitly in the Work Plan (2.3.5).

- **Co-funding / Parallel financing**

To the extent possible, **contributions from partners are to be reflected in the budget**¹⁰.

The Secretariat is to provide **further information on the partnership with UEPT / PTA, in particular how the Initiative represents the African countries and local stakeholders' interests**, in order for the SC to better comprehend the reasoning behind the respective budget allocation¹¹. A copy of the partnership agreement was requested by a donor representative.

- **Participation in international fora**

While the effort to integrate African cooperation countries in the ABS process is reflected in the work plan, the Secretariat agreed to **further accommodate the participation of African focal points and African SC members** in international fora (2.2.1).

- **Legal helpdesk**

Clarity was sought by SC members on the **role and scope of the legal helpdesk**. Its role is to provide legal advice to countries, particularly with regard to developing national regulatory frameworks. Lawyers will give legal guidance in form of **comments, points for consideration and benchmarking** (no legal writing of regulations or contracts!). The scope of the helpdesk is at this stage limited to Anglophone countries, but it is foreseen to be extended to Francophone countries.

- **African Ministerial Conference on the Environment (AMCEN)**

The next AMCEN is held in Cairo, 15-17 April 2016. The involvement of the Initiative as well as support to the African Group at AMCEN is to be discussed with AUC and key participating countries.

Strategic orientation

- **Financing strategy: new donors, service provider, private sector?**

To address the increasing demand for ABS support at national level, while taking account of decreasing donor commitments, the SC discussed options for a potential new financing strategy for the Initiative.

In order to sustain the ABS Initiative as unique capacity hub, SC members suggested:

- To **expand the group of donors / partners to the Initiative**

⁹ The budget currently allocated to the Equator Prize Initiative may be freed for knowledge generation purposes

¹⁰ e.g. (in kind) co-funding by UEPT / PTA

¹¹ Also specify which partner countries will benefit from support to ABS compliant value chains (under 1.3.2. a / b or in the Progress Report).

- To allow, if necessary, funding commitments by (new) donors to be **earmarked for specific activities** (thematic preferences at donor level are to be explored and results fed back to SC)
- To pursue **parallel financing opportunities**
- To further **promote South-South cooperation** with a view to support sharing of experiences
- To continue to act as **service provider within German DC with focus on ACP countries**
- To explore opportunities for **potential cooperation with UNEP and UNDP around GEF funding**

There was consensus that **remuneration from the private sector for activities by the Initiative is NOT acceptable**, but that travel cost reimbursement when informing industry (associations) on ABS and the Initiative can be accepted with care.

Further funding windows for Nagoya Protocol implementation (e.g. using projects on climate change as entry points) were also considered.

- **Quo vadis ABS: link to national and international development agenda**

The Sustainable Development Goals process was closely followed by the Initiative and analyzed with respect to interfaces with ABS. Suhel al-Janabi presented a **policy paper** which outlines how ABS core mechanisms and ABS triggered processes contribute directly or indirectly to the implementation of the SDGs and their respective targets.

The policy paper was **very well received** by the SC: members suggested to **illustrate** the ABS-SDG links **with concrete case examples** to further support consideration of ABS in national development agendas in partner countries and abroad.

The Secretariat strives to compile hands-on examples on (potential) SDG implementation support through ABS for a presentation at COP/MOP 2.

- **Quality of ABS agreements**

The extent to which ABS agreements contribute to national and international development goals including the SDGs depends largely on the specific benefit-sharing provisions of the agreements. Following a presentation by Pierre du Plessis on classification of agreements (see presentation “*Strategic Orientation*”), the Secretariat sought guidance among the SC as to whether the proposed criteria¹² are suitable for a rating of ABS agreements.

In the ensuing discussion, it was highlighted that:

- The **question of legal enforceability of contracts is crucial** when it comes to ABS agreements and is not reflected in any of the standards
- A ranking of standards may be counterproductive (some countries may not reach any of the proposed standards) and the **hierarchy will not be used**. Instead, **all standards of ABS agreements will be counted towards the indicator**.
- It would be useful to **develop a checklist of minimum requirements / key issues** to be covered in ABS agreements. A discussion on the **quality of national legal frameworks** was also considered timely.

¹² For further details see discussion paper “*Establishing criteria for assessing the quality of ABS agreements*”

Any other Business

SC membership: The composition of the SC will not be changed. In the future, budgetary issues are to be discussed with core members in a separate session allowing for better time management.

Confidentiality agreements:

A balance needs to be struck between **preserving confidentiality and allowing for knowledge sharing / dissemination**. Some countries may require written confirmation that classified information will be kept confidential. A **policy statement by the Initiative** to inform users / providers on the use of non-confidential information of ABS agreements for learning purposes was considered useful by the SC. The issue of **non-disclosure agreements** needs to be further discussed within the Secretariat.

Implementation timelines: Delayed implementation of activities at national level will be reported back to the SC.

The Secretariat will circulate a list of important events for ABS implementation among the SC members and publish it on the Initiative's website.