



The ABS Business Dialogue:

The Nagoya Protocol and Green Economy – how to make it work?

Copenhagen, Denmark, June 6 & 7, 2012

R E P O R T

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Background

The Nagoya Protocol on Access and Benefit-sharing (the Nagoya Protocol) is a key element in designing a global framework for sustainable development. It represents a pivotal step forward for providers and users of genetic resources in North and South. The Protocol not only aims at creating fair exchange conditions, but also provides enhanced legal certainty for valuing nature in a market economic approach. Many refer to the Nagoya Protocol as the first internationally agreed and legally binding mechanism for a “Payment for Ecosystem Services” and, therefore, as a building block for a global green economy.

However, the definition of operational details of the Nagoya Protocol, its implementation and the establishment of (pilot) ABS agreements remain a challenge which can only be addressed in a close partnership of the public and the private sector.

Based on the results of the Business Dialogue held in Copenhagen in September 2010, and in the run-up to Rio+20, this second Business Dialogue aimed at sketching out realistic ways towards strategic and technical cooperation between governments and the corporate world from developing and developed countries. A timely event, as countries as well as companies all over the world are currently reviewing their practices in light of the Nagoya Protocol, and are developing new or adapting existing ABS frameworks and measures.

Guiding questions were:

- What are the common expectations?
- What would enabling environments for ABS look like?
- What are the duties of governments?
- What are the responsibilities of the private sector?
- How can ABS be a test-model for a win-win green economy?

Process and outcome

The two-day workshop, generously funded by the Danish Ministry of Foreign Affairs, brought together over 45 representatives from different companies, governments, research institutions and development cooperation agencies from North and South.

The complexity of ABS

Day One focused on bringing the complexity of ABS to light. Introductory presentations – on patenting in Europe related to ABS-relevant genetic resources, and on the draft versions of the IUCN Explanatory Guide to the Nagoya Protocol and the ABS Management Tool as useful instruments for understanding and implementing ABS – set the scene for discussing business opportunities and challenges in the ABS context.

The great variety of ABS business models

Several presentations of actual ABS business models illustrated the great variety of approaches, especially with respect to 'one-off' vs. continuous access to the genetic resources and to research & development (R&D) taking place in the country which provides vs. the country which uses the genetic resources. Examples ranged from ABS schemes where only two parties are involved, e.g. in the Biotech sector, to much more complex value chains, e.g. in cosmetics or pharmaceuticals, where production of the final product requires

continuous supply of genetic resources (GR) and often involves middlemen or other third parties. In the latter case, R&D generally is undertaken in the country of production of the final good entering the market. However, in many value chains initial R&D steps and characterization are also taking place in the country providing the genetic resources. Tools such as the internationally-recognized standard of the Union for Ethical BioTrade (UEBT), for example, provide guidance on ABS, as well as more equitable trading practices, in the continued supply of genetic resources.

Challenges in different business situations

Lively and constructive discussions led to the identification of specific challenges in the different business situations. It became clear that business models of GR utilization are much more diverse than it was assumed at the Rio Earth Summit in 1992, when ABS was negotiated as the third objective of the CBD. Classic 'one-off' approaches, where R&D mainly takes place in technology-rich "user" countries, are giving way to more flexible models. In fact, 'one-off' and continuous access to genetic resources turned out to be not exclusive but complementary. In addition, countries that provide genetic resources are setting up their own R&D capacities – partly using ABS-generated technology transfer – allowing for in-country product development and/or improved market access, and which are based on pre-identified characteristics of genetic resources and valuation of intellectual property (e.g. INBIO / CSIR). The participants' discussion revealed that this reality needs to be more clearly understood and reflected in the respective national regulatory frameworks. Moreover, everyone agreed that the differentiation between user and provider country is increasingly misleading and artificial. Today, every country is a (potential) user and provider at the same time, and therefore needs to deal with ABS from both perspectives.

Win-win opportunities for users and providers

A presentation of the GEF Nagoya Protocol Implementation Fund (NPIF) added further information to the discussions, highlighting win-win opportunities for users and providers of genetic resources. Namibia's application for the NPIF was presented as an example. It was emphasized that activities under the NPIF are to support the development of concrete value chains and business models, so as to result in improved cooperation between developing countries and industry.

The national context

Day two started off with a panel discussion between ABS negotiators and regulators from Europe and Africa (Denmark / Switzerland; Madagascar / Namibia), reflecting experiences made in the specific national contexts. The panel members reported on the status of ratification and implementation of the Nagoya Protocol in their countries, and commented on needs expressed by the private sector. It became clear that the national conditions and contexts vary immensely – for example, factors such as involvement in regional bodies, stakeholder participation processes or political stability play a pivotal role. The panel members further discussed the different business models and how they would need to be addressed by national legislation. Questions were raised regarding the scope of the Protocol and effective compliance mechanisms, e.g. with respect to the definition of R&D and the issue of disclosure in patent applications. Some participants called for effective and centralised checkpoints to guarantee that due diligence requirements are met.

Innovation – the trigger for ABS

Presentations on the Phytotech Africa Platform, a non-profit trade association, and the Australian Biodiscovery Forum illustrated the high potential of ABS and its innovative power from a private and public sector perspective respectively. In the subsequent discussions participants agreed that local R&D partners (e.g. universities, research institutes etc.) are of great value to frame possible ABS packages and value chains. Innovation was clearly identified as the trigger for ABS. Although companies sometimes have better research capacities than public institutions, the involvement of publicly steered forum keeps the dialogue between science and industry going and thus balances the level of knowledge in the different sectors.

Enabling environments for ABS

Based on the information and findings of the previous sessions, participants used the final sessions of the meeting to identify conditions of enabling environments for ABS.

In an iterative series of group works, participants formulated key suggestions and recommendations for future action by different actors regarding the question:

"What would users of genetic resources require for bio-prospecting and –discovery, and for establishing functioning ABS agreements under the Nagoya Protocol?

What would be needed from

1. The public sector in countries that use genetic resources?
2. The public sector in countries that provide genetic resources?
3. Business?
4. Development cooperation?"

Key recommendations from the Second ABS Business Dialogue

Key recommendations to the public sector

All countries have users and are providers of genetic resources, and as such should ratify and operationalise the NP in support of biodiversity conservation and sustainable use and move to a green economy. To regulate the **utilisation of GR** countries should:

- promote the use of genetic resources to create added value in the Green Economy,
- implement practical and effective compliance measures taking into account the diversity of uses.
- create 'Help Desk' for ABS issues

As **providers of genetic** resources, countries should:

- make ABS access regulations and procedures clear, transparent and workable taking into consideration other relevant policy fields (e.g. education, climate change, biodiversity strategies, science and technology, etc.),
- base the development of such ABS regulations and procedures on empirical experiences and be participatory (CO-construction with all the stakeholders: Business, research centres, ILCs, governmental bodies, etc.), and
- create Help Desk for ABS issues

Key recommendations to the private sector/business

- Lead by example
- Identify and disseminate examples of business cases and practices relevant to different sectors
- Develop and use Codes of conduct and sector specific guidelines on ABS
- Seek investment opportunities in business derived from sustainable use of biodiversity

Key recommendations to development cooperation institutions

- Use ABS and Nagoya Protocol as a powerful instrument to attain sustainable development, the Aichi targets, and to put Green Economy into practice
- ABS should be integrated in all relevant development cooperation sectors in a coherent way (e.g. agriculture, trade, climate change, private sector development, food security, governance and biodiversity)
- ABS is no “one size fits all”: Ensure tailor-made solutions following local and sectoral needs for putting ABS into practice, e.g. supporting the development of national frameworks and actual ABS agreements.

The Nagoya Protocol – an important step towards a green economy

Towards the end of the meeting, the participants had the opportunity to present the outcomes to the Danish Minister of the Environment, Ms. Ida Auken, who joined the meeting in the afternoon and welcomed the recommendations of the group. Ms. Auken acknowledged that the Nagoya Protocol is a very promising concept for ecosystem services and a global green economy. She emphasized the importance of a quick entering into force of the Protocol and drew a positive assessment of the meeting, highlighting that the private sector and governments have increasingly convergent views on the rationale of the Protocol. If implemented properly, the Protocol could become an important step forward on the way to a green, inclusive economy worldwide.

The minister expressed her pleasure to transmit the recommendations of the meeting to the Rio +20 summit and to discuss them with a broader stakeholder group in the context of a side event on this Business Dialogue, which will be organized by the Confederation of Danish Industry and the ABS Capacity Development Initiative.

Feedback

As a first evaluation at the end of the event, participants agreed that the workshop brought very helpful and valuable insights into the role of ABS and the Nagoya Protocol for creating a global green economy in general and for possible business models in particular. The workshop helped to trigger and continue networking between the different stakeholders. Hence, they noted that a convergent vision was emerging amongst them.

While participants underlined the need to continue with ABS business dialogues bringing together industry and regulators in the current format, they also suggested that next meetings should:

- 1) continue to provide updates on regulatory developments
- 2) put emphasis on defining scope issues,
- 3) engage more representatives of R&D institutions as well as from indigenous and local communities, and
- 4) work on concrete and in depth case studies as a basis for understanding ABS in practice and bridging the gap between the different stakeholders' needs and expectations.

Contact

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Annexes



**The ABS Business Dialogue:
The Nagoya Protocol and Green Economy – how to make it work?
June 6 & 7, 2012**

A n n o t a t e d A g e n d a

Wednesday, June 6

1. Opening of the workshop

- 8h30 Arrival and registration
- 9h00 Technical Opening
- 9h30 Presentation of the film *“People, Plants and Profits - The Nagoya Protocol on Access and Benefit-Sharing in the context of three bioprospecting examples from Africa*

2. On the way to Rio - ABS, TEEB and Green Economy

How can the implementation of the Nagoya Protocol and ABS agreements contribute to the valorization of nature?

- 10h00 A regulator’s perspective:
Kick-off presentation by Søren Mark Jensen, Head of Division Nature, Planning and Biodiversity, Danish Ministry for the Environment
- 10h15 A business perspective:
Kick-off presentation by Karen Klitgaard, Director Environmental Policy, Confederation of Danish Industry
- 10h30 Coffee break

3. Understanding ABS – business opportunity and challenge

- 11h00 *Who does Research & Development on what?*
An overview on ABS relevant **genetic resources related patenting** in Europe
Paul Oldham, ESRC Centre for Economic and Social Aspects of Genomics (Cesagen)
Q & A session

The ABS Capacity Development Initiative

- 11h30 *What does the Nagoya Protocol regulate – and what not?*
A business focused presentation of the **IUCN Explanatory Guide to the Nagoya Protocol on ABS**
Thomas Greiber, IUCN Environmental Law Centre (IUCN-ELC)
Q & A session
- 12h00 *How to establish sound ABS agreements between users and providers?*
The **ABS Management Tool** – a practical guide for “users” of genetic resources
Geoff Burton, United Nations University – Institute for Advanced Studies (UNU-IAS); Jorge Cabrera, Instituto Nacional de Biodiversidad (INBIO)
Q & A session
- 12h30 Upcoming challenges for industry in the light of the Nagoya Protocol
Open discussion
- 13h00 Lunch

4. ABS business models: Roles of public and private actors

- 14h00 *The GEF Nagoya Protocol Implementation Fund (NPIF)*
Jaime Cavalier, Global environment Facility (GEF) - per video conference - and Pierre du Plessis, Centre for Research Information Action in Africa/ Southern African Development and Consulting (CRIA SA-DC)
Q & A session / General discussion
- 14h30 *ABS business models between “one-off” and continuous access to genetic resources – with R&D at different levels of biodiscovery.*
 - *Hans Rietveld, Novartis (Switzerland)*
 - *Bo Hammer Jensen, Novozymes (Denmark)*
 - *Rik Kutsch Lojenga, Union for Ethical Biotrade (Switzerland/Netherlands)*
 - *Norbert Weitkemper, Vital Solutions (Germany)*
 - *Julien Chupin, ABS-Biotrade Consultant (France)*
 - *Vinesh Maharaj, Council for Scientific and Industrial Research (South Africa)*
 - *Jorge Cabrera, INBIO (Costa Rica)*
- 16h00 Coffee break
- 16h30 *ABS business models between “one-off” and continuous access to genetic resources – with R&D at different levels of biodiscovery (continued)*
Q & A session / General discussion
- 17h30 End of Day One

Thursday, June 7

5. Developing viable Business Approaches to ABS

- 8h00 Coffee
- 8h30 *Panel: Reflections on Day One by ABS negotiators and regulators from Europe and Africa*
Susanne Heitmüller and Suhel al-Janabi, ABS Capacity Development Initiative
- 9h15 *Targeting innovation: A private sector approach – the Phytotech Africa Platform*
Cyril Lombard, Phytotrader Africa and Pierre du Plessis (CRIAA SA-DC)
- 9h45 *Stimulating innovation: A public sector approach – the Australian Biodiscovery Forum*
Geoff Burton, UNU-IAS
Q & A session
- 10h30 Coffee break

6. Group work sessions

- 11h00 *What kind of enabling environments do “users” need for bio-prospecting /discovery and establishing ABS agreements under the Nagoya Protocol?*
- 1) *What would be needed from the public sector to facilitate ABS*
- *in **countries providing** genetic resources (e.g. enabling strategies and measures, genetic inventories, national research platforms, etc.)?*
 - *in **countries using** genetic resources (compliance / disclosure measures, product approval processes, standards, etc.)?*
 - *in the context of **development cooperation** (e.g. specific development projects, academic cooperation programs, public-private partnership support, etc.)?*
- 2) *What can the **business sector** contribute to improve enabling environments for ABS (awareness raising; technology transfer, know-how transfer, training, direct investments, joint research, etc).*
- Moderation Kathrin Heidbrink, ABS Capacity Development Initiative*
- Report back from group work sessions*
- 13h00 Lunch

7. Wrap up: What is needed that ABS can contribute to green economy?

14h00 *Discussion of key findings*

Message to Rio+20 and further...

Recommendations to the business and public sector for a successful joint implementation of the third objective of the CBD – the fair and equitable sharing of the benefits arising out of the utilization of genetic resources

Exchange with Rio “messengers” on key findings of the workshops and messages to be conveyed to Rio +20

Lars Goldsmith, Director, Confederation of Danish Industry (tbc)

Ida Auken, Danish Minister for the Environment (tbc)

Moderation Kathrin Heidbrink, ABS Capacity Development Initiative

16h30 Closure of the work shop

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|--------------|-------------------|--------------------------|---|-----------------|
| | Suhel | al-Janabi | ABS Capacity Development Initiative | GERMANY |
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| | Christina | Bergendorff | Nature Agency, Danish Ministry of the Environment | DENMARK |
| | Valérie | Boisvert | Institut de Recherche pour le Développement (IRD) | FRANCE |
| | Geoff | Burton | United Nations University | AUSTRALIA |
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| | Charlotte | D'Erceville | BASF Beauty Care Solutions | FRANCE |
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| | Kathrin | Heidbrink | Facilitator | GERMANY |
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| | Johanna | Klapwijk | International Biocontrol Manufacturers Association | THE NETHERLANDS |
| | Karin | Klitgaard | Confederation of Danish Industry | DENMARK |
| | Rik | Kutsch Lojenga | Union for Ethical Bio Trade (UEBT) | SWITZERLAND |
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