



THE ABS
CAPACITY
DEVELOPMENT
INITIATIVE



L'INITIATIVE DE
RENFORCEMENT
DES CAPACITES
POUR L'APA



ACP MEAs 2



Training

Capacity-Building Workshop on the Negotiation of Mutually Agreed Terms for Access to Genetic Resources, to Support Effective Implementation of the Nagoya Protocol on Access and Benefit Sharing

Paramaribo, Suriname, 30 November – 04 December, 2015

Hosted by: CARICOM Secretariat and the Government of the Republic of Suriname

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Background

With the entry into force of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (Nagoya Protocol), many countries are in the process of developing new or are revising their existing ABS regulatory frameworks for implementing the Protocol.

In light of the central role of Mutually Agreed Terms (MAT) in any functioning ABS system, understanding main elements of ABS contracts and contract law is key for the conclusion of fair and equitable access and benefit-sharing arrangements and long-term trustful relationships between providers and users of genetic resources and associated traditional knowledge.

However, practice reveals that negotiating partners are often not equally empowered to negotiate at eye level. Development of the understanding of main elements of ABS contracts as well as negotiation skills have been mentioned at many occasions as key capacity building needs.

Therefore, the ABS Capacity Development Initiative in cooperation with the Norwegian Fritjof Nansen Institute developed a format and materials for a MAT negotiation training. This regional training in Paramaribo is the third time the training is tested in the three regions of the ACP countries. The training was supported financially by the Caribbean Community Secretariat as the Caribbean Hub of the Programme for Capacity Building related to Multilateral Environmental Agreements in African, Caribbean and Pacific Countries (ACP-MEAs) and the multidonor ABS Capacity Development Initiative.

Objectives

The training aims at providing in-depth understanding of key elements of ABS contracts with respect to content as well as negotiation process. The objectives are to:

- Gain an understanding of the overall role of mutually agreed terms in the context of ABS;
- Identify and understand the various actors involved in ABS agreements and their differing interests and practices;
- Learn how to find and understand the interest of your counterpart in ABS negotiations;
- Comprehend the building blocks of ABS contracts, including object and purpose of the contract, third-party transfer and change of intent, benefit-sharing clauses, intellectual property rights (IPRs), compliance and enforcement;
- Develop negotiation skills to conclude optimal and mutually beneficial ABS agreements;
- Provide a platform for dialogue where national focal points and other representatives of relevant institutions potentially involved in ABS contracts negotiations can discuss and share concrete and practical experiences with ABS contracts and learn from each other.

Expected Outcomes

It is expected that after the workshop, participants come away with a sound understanding of:

- Key elements of ABS agreements;
- Relevant aspects of contract law;
- Negotiation skills required for concluding successful ABS agreements.



Participants

The training was attended by 43 participants, amongst them 23 participants from governmental institutions in 13 CARICOM Member States. They were technical officers from ABS-relevant institutions / National ABS Focal Points or legal experts. Furthermore, 7 representatives of indigenous peoples or local communities from 5 CARICOM Member States and 4 participants of scientific institutions took part. Also 2 representatives from the IUCN Regional Office for Mesoamerica and the Caribbean, responsible for convening the coming regional ABS GEF project, attended the training.

Outcome

After the workshop, participants came away with a sound understanding of:

- Key elements of ABS agreements
- Relevant aspects of contract law
- Negotiation skills required to conclude successful ABS agreements
- Practical examples on how to improve current research and access permits

Participants were actively involved in the discussions and group work. The workshop comprised presentations, films and group activities, including a wide variety of practical exercises based on real life and fictional cases. Participants received a full set of documents, permits and contracts discussed will be made available when permission of the respective countries and parties is sought.

Process

Day 1 - 30.11.2015

1.1 Opening Session

The workshop was opened by short statements of representatives of the

- Government of Suriname
- United Nations Environment Programme in Nairobi
- CARICOM Secretariat
- ABS Capacity Development Initiative

Representatives of national media were present and covered the event in newspapers and TV. The event also received coverage in other countries of the region via the Communications Unit of the CARICOM Secretariat.

1.2 General context for ABS contracts: CBD, Nagoya Protocol and beyond

The first session set the scene for the legal and political background against which ABS agreements between users and providers are being negotiated. Participants were informed about the ABS principles and obligations established by the CBD and further developed in the Nagoya Protocol. Besides it provided a brief introduction into the role and importance of contracts in the field of ABS.



1.3 Update on ABS issues in Caribbean countries

Participants introduced themselves and gave an overview about the state of ABS in their countries.

- **Antigua and Barbuda:** Delegation was involved in the negotiations of the Nagoya Protocol and now seeks in depth knowledge for national implementation and MAT negotiations because there are requests for access to genetic resources, the country adopted ABS provisions in the environment act
- **Belize:** The delegation seeks more information on ABS issues in order to better coordinate between the different government offices that deal with research permits on access to GR, the country considers to establish an ABS system
- **Dominica:** Delegation underlines that indigenous peoples by nature have ownership of the land, the Kalinago have a legal status (Kalinago Territory Act, former Carib Reserve Act) which is reflected in forming a ministry and involving Kalinago in events like this
- **Grenada:** Delegation seeks information how the ABS system can be used for the country
- **Guyana:** The country has adopted an ABS system including a rights-based approach for the Amerindian communities, the delegation seeks information how to better negotiate MAT, so far no applications for commercial bioprospection and access to aTK were sought, the authorities issue ABS research permits, researchers go to the villages, but the authorities do not receive further information on utilisation
- **Haiti:** The delegation seeks information on ABS issues and in the context of this workshop likes to have more clarity on how to know if an agreement is fair and equitable for providers and users
- **Jamaica:** The delegation seeks information on how feasible it is to implement the Nagoya Protocol especially with regard to monitoring
- **Montserrat:** The Nagoya Protocol has not been extended to Montserrat by the UK yet, the delegation seeks more information on ABS issues.
- **Saint Kitts and Nevis:** ABS will be regulated in the context of the environment act, the delegation seeks information on how to proceed best with ABS policy and legislation, right now the country has an ad hoc permitting system for accessing genetic resources without specific benefit sharing elements
- **Saint Lucia:** Delegation seeks more information on how to define ABS cases and develop national strategies to enable the country to organise ABS issues in the absence of specific legislation as well as to set up a proper national ABS framework
- **Saint Vincent and the Grenadines:** Delegation will gather more information how the country can benefit from the Nagoya Protocol and to support the ratification process
- **Suriname:** The delegation seeks to gather information on all aspects of the Nagoya Protocol and national ABS issues to present ABS document to policy makers, in the national context it is important to know about the importance of genetic resources and aTK for the indigenous people and to support benefit sharing, the environmental matters are now dealt with in the Office of the President which is supportive of the cross-sectorial importance of environmental matters, the specific issues in the field of ABS are to know better how GR and aTK from Suriname were used in research, development and products, although this certainly happened there is no benefit sharing with the country and indigenous peoples, the question is what can we do about this now and how to deal with breaches of contracts in the future
- **The Bahamas:** The country has a research permit system that gives access to genetic resources without specific benefit sharing provisions, the legal situation on commercial access request is not clear although such access is asked for or even conducted, The Bahamas will submit a national ABS project to the GEF in order to set up a comprehensive ABS system
- **Association of Indigenous Community Leaders (Suriname):** The organisation represents indigenous women and children, the ABS system should include mechanism that benefit



them and recognise the indigenous peoples as the original owners of aTK and GR, indigenous organisations need to undertake awareness raising and education in these issues

- **Maroon Community of Moore Town** (Jamaica): There need to be information on ABS disseminated to the local communities, the implementation of the Nagoya Protocol needs to be undertaken together with these communities, the utilisation of their GR and aTK need to be monitored
- **National Garifuna Council** (Belize): The organisation looks into the importance of ABS issues with regard to claiming the rights on GR and land, especially in fishing
- **National Tshao Council** (Guyana): The NTC represents 187 legal indigenous communities of the Amerindian peoples, the delegation will increase its knowledge about ABS and bring back information to the communities
- **Organisation of Indigenous People of Suriname**: The organisation was present in all ABS workshop conducted by the ABS Initiative in the region and is involved in the related discussion in Suriname, the new information will be used in a presentation for the cabinet of the president
- **Centre for Agriculture Research in Suriname (CELOS)**: CELOS hosts a cassava field gene bank and seeks information about the legal requirements relevant to the expansion of the collection
- **National Herbarium of Suriname**: The herbarium undertakes research in the meaning of the Nagoya Protocol and is confronted with the loopholes of the system, the work is also linked with the Amazonian region in Brazil that has a legal ABS system, guidance is necessary on how to deal with the indigenous peoples and genetic resources
- **National Institute for Environment and Development in Suriname (NIMOS)**: NIMOS undertakes research projects involving aTK and GR and seeks information on how to bring the institute's operations on secure legal grounds
- **University of the West Indies - Biotechnology Centre** (Jamaica): the Centre works for the government in projects with the local communities and needs clarities about the steps that need to be done, although being active in the field of biotechnology, the benefits that can be shared will not be huge, they should directly reach the communities
- **CARICOM Secretariat**: Benefit sharing is one issue in the CARIFORUM EU Economic Partnership Agreement
- **IUCN**: IUCN is executing a regional ABS project for 8 CARICOM countries and seeks closer contact to the country delegations, the activities should also be coordinated and complementary to the relevant activities of other organisations and initiatives.

The workshop should address all questions related to ABS contracts and respective legal requirements. The overarching issue could be: How can we use private law contracts to generate benefits and direct them to local communities and biodiversity conservation?

1.4 Elements of contracts: Types of users, utilisation and resources

This session explored the variety of actors involved in ABS agreements and their different approaches to ABS in practice. Issues examined include: the demand for genetic resources (GR), the market, the types of benefits shared, the use of associated traditional knowledge (aTK), the need for one-time access vs. repeated access to the resource; and how contracts can pave the way to increased valorisation of GR and TK.

The presentation informed about the obligation in the Nagoya Protocol and discussed the issue of acceptance of legal decisions across borders. The Nagoya Protocol as international law does not bind



institutions, companies or private persons, only government. Therefore, national ABS legislation needs to be established to make the Nagoya Protocol functional. This legislation – or other appropriate legislation – also needs to operationalise the principle of natural sovereignty over genetic resources through stating ownership over GR and establishing access rules.

With regard to the fact that many CARICOM countries have established research permit systems and might adopt this concept for ABS it has to be stressed that national permits do not unfold any power in other countries. Conditions for the user which might be contained in a permit cannot be enforced by the permit issuing country in a foreign country. Only – additional – private law contracts that are valid under both juridical systems can be enforced in the providing as well as in the user country. There need not to be any bilateral agreements between governments to negotiate and sign ABS contracts between providers and users.

With regard to check points it should be discussed whether the obvious idea to establish customs as checkpoint is really useful in the context of the Nagoya Protocol and ABS. Checkpoints need to control the utilization of GR and aTK – this task cannot be performed by customs. And countries need to acquaint themselves with the fact that checkpoints are meant to monitor the utilization of (foreign) GR in the own country, not to control the export of GR.

The workshop listed possible users that could ask for access:

Agronomists, archaeologists (for aTK), bioterrorists, botanical gardens, botanists, breeding companies, brokers for users., chemical companies, conservationists, cosmetic companies, ecologists, ethnologists (for aTK), explores of subsoils and seabed, film producers (for aTK), governments, healers, herbalists, indigenous peoples, media (for aTK), museums, pharmaceutical companies, philanthropist, spiritualists, traders, universities

It is important for authorities to determine whether first access is for utilization and also to determine whether and how utilization could start after access that is not for utilization (e.g. access for trade). Possible ways and circumstances need to be reflected in MAT to ensure legal utilization and benefit sharing.

Day 2 - 01.12.2015

2.1 Mutual understanding of the parties to a contract – With whom are you negotiating?

The session focused on learning how to find and understand the interest of the counterpart in ABS negotiations – by better understanding the other's perspective. What is needed to find out about the party you are negotiating with? Who is the company that is accessing? Who has discretion/authority to act on its behalf? Is it this the company, which will finally sell the products in the market? If so, which market? If not, which company will create the benefits that should be shared with you?

The presenter underlined that the user must be the legitimate representative of an institution or company to sign a contract on their behalf. In most cases it is also necessary that the actual user needs to sign as natural person. Only double signatures will bind users as natural and legal persons and can prevent shifting around GR between different sorts of users. The form and content of the contract and the legal person need to be recognised in the user country. The providing country and the user country law need to specify that the actual ABS partners are able to enter into a contractual relation, otherwise the contract would not be valid in front of a court.



The providing country needs to undertake pre-negotiation research on the potential users, their legal form, and should ask a third person, not only the user about this. It is also crucial to gain insight about the structure of a company that asks for access with regard to mother / daughter companies that could act as second users or commercialising entities.

The providing country should also be clear about whether a non-commercial user is a commercial user or closely linked with a commercial user at the same time. For example, many university researchers in the fields of biochemistry or biotechnology are linked or own small companies attached to their university. Access permits must ask for clarification of such links because MAT need to respond to them.

The audience was not sure whether providing countries with limited resources and expertise could perform all these checks. The presenter suggested several means to address these issues as e.g. the development of check lists and standard clauses, the involvement of business and contract lawyers, linking each ABS contract to a bank guarantee.

2.2 ABS and academia: Experiences with Mutually Agreed Terms (MAT) and benefit-sharing at the University of the West Indies (UWI)

(For details see the presentation)

2.3 Short practical exercise

Internet search and compilation of results (20min) and presentation (5 min)

Task: If you know of any company seeking access to GR and aTK in your country please search the internet and gather the relevant information about the company. If there is no such company please identify a company with which you would like to enter into an ABS agreement and undertake a similar internet search. Prepare a short briefing about the company and present it to your colleagues.

2.4 The object and purpose of the contract

The session introduced into the basic issues of an ABS contract. Main issues were: What material is transferred? For what purpose? For what type of utilization? What are the consequences of going beyond the agreed activities? Other issues were: Links and gaps between an ABS contract and intellectual property rights (IPR) agreements; the time gap between accessing the GR and selling the product in the market; and issues of exclusivity.

The presenter stressed that any ABS contract must follow certain standards in order to be defensible in front of a court: to be understandable for a judge, to be specific enough for enforcement, to contain enough and clear definitions of the crucial terms. In many cases of access for research a future product is not known at the time when the contract is concluded. Therefore it must be specific on what needs to happen at the various (foreseeable) steps of the value chain. The contract should ask for a research plan and regular reporting, deal with ownership issues of the research data. There need to be agreements about publication of data and results or other forms of bringing research results into the public domain. And again, demanding a bank deposit might be a good idea to increase compliance with the contract provisions.



If the contract is about a developing a specific product – as e.g. the ABS contract on Tef – it need to deal specifically with the typical steps of the value chain. The contract also needs to contain provisions on how to deal with new ideas for research and development that might arise during time.

2.5 Improving benefit-sharing in The Bahamas: overview of the national ABS project

(For details see the presentation)

2.6 Benefit-sharing clauses

The session concentrated on non-monetary and monetary benefits and used the example of the Griffith University/Australia in terms of impacts of benefit sharing on national development. Main issues were: How to make benefit-sharing clauses work? What types of benefits are most suited to a particular situation? At what point in time should they be shared? The links to IPRs were discussed: How can IPRs contribute to the sharing of benefits? How to bridge the time gap between access to GR and the development of a product based on this resource? The session was concluded by an exercise to draft benefit-sharing clauses based on national priorities and local context.

The participants felt that several of the presented benefit sharing clauses were not specific enough or related to accounting terms that could be easily changed in favour of the user. An example is benefit sharing as percentage of the net profit gained with a certain product. The net profit can be reduced significantly by the deduction of various costs that are not related to utilisation of the specific GR. A better basis would be the gross sales. Any such reference will pose the problem of independent monitoring by the user because companies will not give unlimited insights into their accounting system. As with any other benefit sharing clause, trust is necessary and workable solution need to be found. One solution could be checking of the product-related parts of the accounts by an independent company.

A second critical issue is information on aTK that is already in the public domain. No concepts of benefit sharing are available for this situation; the Nagoya Protocol does not deal with it either. A first step would be the acknowledgment of rights of IPLCs over their aTK by governments and the setting up of a legal framework for its protection and a fair and sustainable utilisation of aTK.

Day 3 - 02.12.2015

3.1 Third-party transfer and change of intent

The session introduced into the issues of complexity on the user side, including complex value chains and the role of middlemen/intermediaries. Main issues with regard to commercial and non-commercial/academic users were: What are the challenges and opportunities? How to develop the GR into a product? Should a two-step model be applied? The session concluded with an exercise to draft third-party mechanisms and obligation clauses for the transition phase between an initial research and a resulting commercialisation agreement (change of intent and utilisation).

The presenter underlined that contract with regard to possible changes of intent and utilisation should not contain negative but positive language. For example, new research with the GR should not be forbidden, especially when the contract does not foresee any consequences if this clause is not complied with. If it contains consequences, the provider country needs to be clear if and how the consequences can be enforced in another country. The better solution is to include clauses asking



the user to come contact the provider if a change of intent is and utilisation is planned. The same would apply for unforeseen commercialisation. Change of intent and utilisation is not as unforeseeable as it might appear. For example, results of unsuccessful medicinal research might find their way into the cosmetic or nutraceutical research and development. Here, legal requirement in efficacy and safety tests are not as stringent as in drug development. To the contrary, medicinal research will certainly not result in the accidental development of a new plant variety.

3.2 Confidentiality and exclusivity

The session explained confidentiality and follow-up mechanisms as major needs of businesses. Main options are either building trust between the partners or substituting trust with bank guarantees and surveillance mechanisms – and of course a combination of both. Provider and user need to agree on the degree and form of exclusivity on access to and the use of GR and aTK because such exclusivity serves as incentive for investments and product development.

(For details see the presentation)

3.3 Compliance and enforcement

The session looked at different solutions for compliance and challenges related to enforcement. Main elements supporting compliance are: Reporting requirements; choice of law; dispute settlement provisions; choice of courts or alternative dispute settlement mechanisms (mediation, arbitration). Challenges related to the enforcement of foreign judgements or arbitral awards were discussed.

(For details see the presentation)

3.4 EU ABS Regulation 511/2014

The session gave an overview about the main provisions of the EU ABS Regulation, mainly establishing different user measures to install a legally binding compliance regime for all users in EU Member States, entering into force fully in October 2015. The session also presented examples of implementation in in selected EU Member States.

(For details see the presentation)

Day 4 - 03.12.2015

4.1 Introduction to negotiation dynamics

The session introduced concepts of negotiations, based on the seminal work 'Getting to Yes: Negotiating Without Giving In' by Roger Fisher and William Ury (1981). The authors suggested four principles to overcome pitfalls of business negotiations:

1. Separate people from the problem
2. Focus on interests, not positions
3. Invent options for mutual gain
4. Insist on using objective criteria

These four principles were illustrated by using real-world or fictitious ABS examples.



4.2 Review of permits used to grant and regulate access to genetic resources and associated traditional knowledge

As result of the 3rd Caribbean ABS Workshop in 2013, the CARICOM Secretariat asked its member states to provide the forms of research permits and underlying legislation. The ABS Initiative was asked to analyse the forms with regard to the presence and efficiency of ABS-related clauses and to suggest provisions and additional measures to increase the ABS relevance of the permit system until a national ABS framework is established. The presenter presented various permits and entered into a fruitful discussion with the participants which benefitted from the information received during the workshop. Several suggestions for improvements and additions were made and will be compiled in a final report. In addition, it will be clarified with the NFPs if examples of permits can be made available publically to serve as examples in following training courses.

4.3 Field trip to the Anton de Kom University

The workshop participants visited the National Herbarium and the Centre for Agricultural Research in Suriname and discussed ABS aspects in the work of these institutions.

Day 5 - 04.12.2015

5.1 Review of permits used to grant and regulate access to genetic resources and associated traditional knowledge

(continued)

5.2 GEF Project on Advancing the Nagoya Protocol in countries of the Caribbean Region

The presenters of IUCN introduced the regional GEF ABS project and discussing the approach and first activities with the participants.

5.3 CARICOM ABS Capacity-Building Framework

The presenter of the CARICOM Secretariat introduced the draft framework for capacity-building on access and benefit-sharing for CARICOM countries. This document has been circulated for review by Member Countries of CARICOM. Upon formal endorsement by Member Countries, it will provide a framework for capacity-building to provide for effective ABS action in CARICOM.



Feedback

Summary of feedback round

Participants in general were content with the training; many aspects became much clearer for them during the week. In the following specific remaining issues and questions are listed resulting from the final evaluation session.

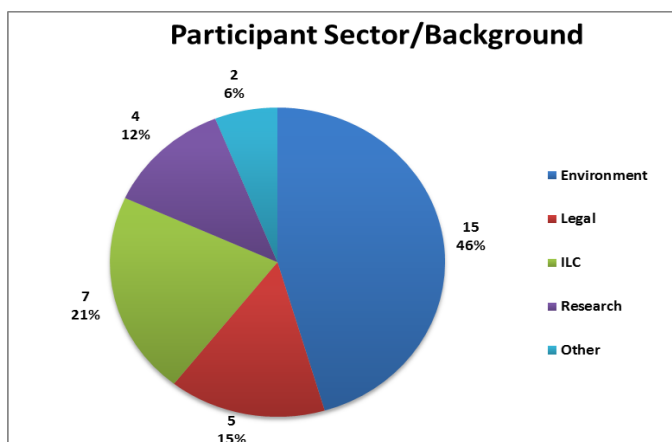
- What should be put in the contract with regard to the applicable national law? This aspect can hardly be dealt with in a regional workshop.
- The crucial issue is the legal status of indigenous peoples, also with regard to make a contract; this depends on the legal system in the country.
- In a training course with WIPO the university was seen as acting as provider, representing also ILCs in contract negotiations; the take home message is that this is not the case.
- How should a country deal with TK floating around in the country when there are no indigenous peoples, recognised owners?
- Many local and indigenous people claim that they are the holders of specific aTK but there is no legal recognition of this. How to deal with this situation when access is sought and MAT need to be negotiated?
- How can the principles of UNDRIP be used in ABS issues?
- The main issue to be decided at home is to apply a one-step or two-step model in designing the contracts.
- Can the government be made responsible if a GR becomes degraded and the user cannot any longer access it as agreed upon in an ABS contract?
- How to increase the understanding amongst officers responsible for negotiating ABS agreement on the various acts and concepts that govern business contracts? This is not in the expertise of environmental officers (mostly scientists or environmental lawyers).
- How can a country actually monitor the utilisation of its GR and the underlying economic figures for the agreed benefit sharing?
- How should academics deal with possible interference and restrictions in publishing results? If the knowledge reaches the public domain, the exclusivity of an ABS contract might be gone.
- Caribbean countries are also users; we need to do something about this in ABS frameworks.
- National TK legislation needs to look at TK as such, not only at TK associated with genetic resources. Such legislation needs to formalise customary rights.
- National research and utilisation must not be overregulated, young scientists are any way tempted to go to the USA, this trend must not be increased
- There are examples of negative protection of TK, but in the context of ABS and value chain development we need examples for positive protection of TK.
- How can we merge the concepts of PIC and FPIC, are they different?

Summary report on participants' workshop evaluations forms

Post-workshop evaluation forms were received from 33 participants (31 participants submitted pre-workshop evaluation forms), 67% of whom were female and 33% male. Of the post-workshop respondents, 45% came from the environment field. The representation from indigenous and local communities (ILCs) was quite high, with 21% of respondents participating as official representatives of ILCs. (Note also that the two participants in the other category indicated that they were from Ministries/Departments responsible for ILC liaison and representation.) The workshop was received favourably and rated highly by participants. On a scale of 1 (very poor) to 5 (very good), the average participant rating for the overall workshop was 4.70. The average rating for the workshop



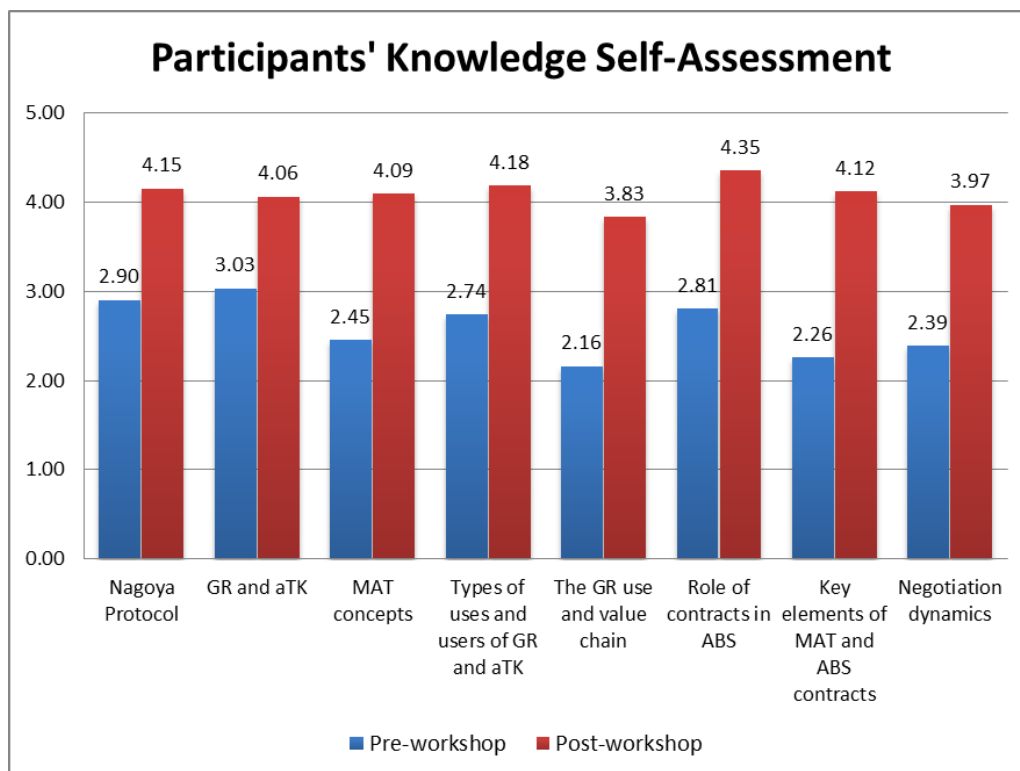
sessions/topics was 4.33 out of 5, with the highest ratings being given to the sessions that provided the initial introduction to ABS contracts.



Workshop Session	Average Session Rating (1=very poor; 5=very good)
General context for ABS contracts: CBD, Nagoya Protocol and Beyond	4.44
Elements of contracts: types of users, types of uses and types of resources	4.50
ABS and National Law	4.11
Mutual understanding of the parties to a contract – who are you negotiating with?	4.52
The object and purpose of the contract	4.48
Benefit-sharing clauses	4.21
Third-party transfer and change of intent	4.32
Confidentiality and exclusivity	4.27
Compliance and enforcement	4.36
Introduction to negotiation dynamics	4.36
Field Trip	4.02
Update on ABS activities in the region	4.38

The lowest-rated teaching session was the one on ABS and National Law. Based on write-in comments and recommendations from participants, if this session had, as originally intended, included more coverage of ABS-related legislation from CARICOM, it would probably have been better received.

At both the start and the end of the workshop, participants were asked to self-assess their awareness and understanding, on a scale of 1 (no knowledge) to 5 (excellent knowledge), in eight areas related to ABS and the objectives of the workshop. Comparison between the pre- and post-workshop results indicates that generally participants thought that their knowledge in all of the subject areas had increased. The greatest positive change was noted in relation to participants' understanding of key elements of MAT and ABS contracts.



In the post-workshop evaluation, participants were invited to identify three things that they liked most about the workshop. Results show that the participants especially appreciated that the presenters were knowledgeable and presented the subject matter in a way that was both interesting and easily understandable even by laypeople or people with no prior knowledge of the topic. The interactive and participatory nature of the workshop was also much appreciated; participants praised the presenters' openness to questions, the thorough answers given to questions asked, and the opportunities for open discussion, and the sharing of experiences and lessons learned between countries and stakeholder groups. A third factor what was much-liked was the use of real-life cases (including the permits from CARICOM countries) to provide practical examples of and advice about the development of effective ABS agreements.

One of the most common recommendations made by the participants to improve delivery of future similar workshops was for more frequent group exercises, designed to address, in a structured and practical way, each topic taught, giving participants opportunities to examine and work on sample agreement, permits, laws, regulations, etc. A related recommendation was for the groups to be mixed up occasionally over the course of the workshop to allow for more varied exchange of perspectives.

A frequent recommendation from participants representing ILCs was for there to be specific sessions addressing the interests of ILCs and the formulation of MAT and agreements related to the use of traditional knowledge associated with genetic resources. It was also recommended that materials to be made available prior to the workshop and for additional resources (e.g. examples of national legislation, sample permits, model ABS contracts and/or MAT clauses, recommendations for further reading) to be made available at the end of the workshop.

Overall, participants consistently reported that the workshop had met and even exceeded their expectations, and that the knowledge gained would be useful to their work, particularly in informing the development of national ABS policies, raising the awareness of ILCs and ABS and MAT, and guiding the use and improvement of ABS permitting systems.



Presentations

The presentations of the participants will be linked from the pdf version of the report to our website in chronological order.

Day 1

- 1.2a: [General context for ABS contracts CBD, Nagoya Protocol and beyond](#)
- 1.2b: [Training on Mutually Agreed Terms: Contracts for making ABS functional](#)
- 1.4: [Types of users, types of uses and types of resources](#)

Day 2

- 2.1: [Mutual understanding of the parties to a contract – With whom are you negotiating?](#)
- 2.2: [ABS and academia: Experiences with Mutually Agreed Terms \(MAT\) & benefit-sharing at the University of the West Indies \(UWI\)](#)
- 2.4: [The object and purpose of the contract – the subject matter of the contract](#)
- 2.5: [The Nagoya Protocol on Access and Benefit Sharing in The Bahamas](#)
- 2.6: [Benefit sharing clauses in ABS Contracts](#)

Day 3

- 3.1: [Third party transfer and changes of intent](#)
- 3.2: [Confidentiality and exclusivity](#)
- 3.3: [Compliance and enforcement](#)
- 3.4: [ABS and national law - EU ABS Compliance Regulation 511/2014](#)

Day 4

- 4.1: [Negotiation dynamics - Introduction](#)

Day 5

- 5.1: [Negotiation dynamics – Introduction](#)
- 5.2: [Advancing the Nagoya Protocol in Countries of the Caribbean Region](#)
- 5.3: [DRAFT Caribbean Community Access and Benefit-Sharing Capacity Building Framework](#)



Agenda

Monday, 30. November

Opening of the workshop

- 11h00 Arrival and registration
- 11h30 Opening Session
- 13h00 General context for ABS contracts: CBD, Nagoya Protocol and beyond
Hartmut Meyer, ABS Capacity Development Initiative, Germany
- Update on ABS issues in Caribbean countries
- 15h20 Elements of contracts: Types of users, utilisation and resources
Morten Walløe Tvedt, Fridtjof Nansen Institute, Norway

Tuesday, 01. December

- 09h00 Mutual understanding of the parties to a contract – With whom are you negotiating?
Morten Walløe Tvedt
- ABS and academia: Experiences with Mutually Agreed Terms (MAT) and benefit-sharing at the University of the West Indies (UWI)
Sylvia Mitchell, University of the West Indies, Jamaica
- 11h00 Short practical exercise
- 13h13 The object and purpose of the contract
Morten Walløe Tvedt
- Improving benefit-sharing in The Bahamas: overview of the national ABS project
Stacy Lubin-Gray, Bahamas Environment, Science and Technology Commission, The Bahamas
- 15h45 Benefit-sharing clauses
Morten Walløe Tvedt

Wednesday, 02. December

- 09h00 Third-party transfer and change of intent
Morten Walløe Tvedt
- 11h00 Confidentiality and exclusivity
Hartmut Meyer
- 13h30 Compliance and enforcement
Morten Walløe Tvedt
- 15h45 ABS and national law - EU ABS Regulation 511/2014
Hartmut Meyer

Thursday, 03. December

- 09h00 Introduction to negotiation dynamics
Hartmut Meyer & Morten Walløe Tvedt
- 11h00 Review of permits used to grant and regulate access to genetic resources and associated traditional knowledge
Morten Walløe Tvedt
- 13h00 Field trip to the Anton de Kom University

Friday, 04. December

- 09h00 Review of permits used to grant and regulate access to genetic resources and associated traditional knowledge
Morten Walløe Tvedt
- 11h00 Update on regional ABS activities
GEF Project on Advancing the Nagoya Protocol in countries of the Caribbean Region
Pía María Hernandez, IUCN Office for Mesoamerica and the Caribbean, Costa Rica
- CARICOM ABS Capacity-Building Framework
Thérèse N. Yarde, CARICOM Secretariat, Guyana
- 12h00 Workshop evaluation and closing



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