



THE **ABS**
CAPACITY
DEVELOPMENT
INITIATIVE



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

11th Pan African Workshop on Access and Benefit-Sharing

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Acronyms and Abbreviations

ABS	Access and Benefit-Sharing
AU	African Union
CBD	Convention on Biological Diversity
CGRFA	Commission on Genetic Resources for Food and Agriculture
CNA	Competent National Authority
COP	Conference of the Parties (to the Convention on Biological Diversity)
DSI	Digital Sequence Information
EU	European Union
IGC	Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
IPLCs	Indigenous Peoples and Local Communities
IRCC	Internationally Recognised Certificate of Compliance
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
MAT	Mutually Agreed Terms
MOP	Meeting of the Parties (to the Nagoya Protocol)
PGRFA	Plant Genetic Resources for Food and Agriculture
PIC	Prior Informed Consent
SCBD	Secretariat of the Convention on Biological Diversity
TCEs	Traditional Cultural Expressions
UNCLOS	United Nations Convention on the Law of the Sea
WHO	World Health Organisation
WIPO	World Intellectual Property Organisation



Background

Since the coming into force of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization (ABS) in 2014, African countries have intensified activities to adapt or develop their domestic ABS systems. At the regional level, guidance is provided by the 2015 African Union Guidelines for a Coordinated Implementation of the Nagoya Protocol, and the African Group continues to play an important role in the negotiations of the Parties to the Convention on Biological Diversity (CBD) and the Nagoya Protocol. In this international context, negotiations around certain issues under the Nagoya Protocol are still ongoing, e.g. on the need for and modalities of a Global Multilateral Benefit-Sharing Mechanism. Furthermore, emerging issues, such as how the generation, publication and utilization of Digital Sequence Information can be dealt with from an ABS perspective, raise questions about the effectiveness of ABS systems concentrating only on access to and utilization of the biological material as such. Against this background, the 11th Pan-African ABS Workshop focuses on reviewing the relevant outcomes of recent meetings of the Nagoya Protocol and the CBD and supporting African countries for an effective coordination for and participation at COP MOP 3 of the Nagoya Protocol and related events in November 2018 in Egypt.

Approach and Objectives

This 11th Pan-African ABS workshop will provide a forum for National ABS Focal Points and other experts who are expected to be present at COP MOP 3. The workshop will discuss substantial topics such as Digital Sequence Information and the Global Multilateral Benefit Sharing Mechanism as well as mechanisms for better information exchange and coordination through the ABS Clearing-House and the internet-based communication platform for the African Group of Negotiators.

Specifically, the main objectives of this workshop are:

- Participants are updated on international and regional processes in ABS and related fields, including on the outcomes of the AHTEG on Digital Sequence Information, SBSTTA 22 and SBI 2;
- Participants intensify the continental exchange and strengthen their networks;
- Participants use the workshop to further develop common African positions in coordination with the African Union Commission.

Participants

In total, 60 participants from 43 countries included National ABS Focal Points or other biodiversity-related Focal Points who will participate in the negotiations of COP MOP 3 of the Nagoya Protocol in Egypt in November 2018 and selected experts who are familiar with the international ABS-related discussions in the CBD and its various forums. For further details, a list of participants is attached in the annex. Simultaneous interpretation in French and English was provided throughout the plenary sessions of the workshop.



Outcomes

This 11th Pan African ABS workshop was specifically designed to review the relevant outcomes of recent meetings of the Nagoya Protocol (NP) and the CBD and supporting African countries for an effective coordination for and participation at COP MOP 3 of the NP and related events in November 2018 in Egypt.

Another focus of the workshop was to revisit the NP's bilateral approach, to ABS as well as the user-provider interface and the core provisions of the NP, such as PIC, MAT and compliance. Looking at the outcomes of the analysis of the Interim National Reports which were submitted by African countries to the SCBD, participants explored options for improving the reporting format in preparation of the assessment and review of the effectiveness of the NP at COP / MOP 3. Further, participants were updated on international and regional processes in ABS and related fields, including on the outcomes of SBSTTA 22 and SBI 2. They were also provided with an introduction to the African online coordination tool with a view to intensifying the continental exchange and strengthening networks within the region. A session on the Post-2020 Strategic Plan gave participants new insights on the links between ABS and the Sustainable Development Goals (SDGs). The workshop also addressed new issues for policy development such as digital sequence information (DSI) and their relevance for ABS implementation as well as the need for a Global Multilateral Benefit-Sharing Mechanism under Article 10. The discussions further highlighted the key role of the ABS Clearing-House in facilitating the implementation of the NP and helping to ensure compliance with ABS measures and transparency in monitoring the utilisation of genetic resources along the value chain.

Finally, a key aim of the 11th Pan African Workshop on ABS was to facilitate discussion among participants with a view to further developing common African positions in coordination with the African Union Commission and to foster a climate of information sharing among them that will hopefully extend beyond the workshop itself.



Process

Day 1 - Monday, 1st October 2018

The meeting was opened by Suhel al-Janabi, Co-Manager of the ABS Capacity Development Initiative, who also presented an opening statement on behalf of the Directorate-General for Environment of the European Commission (EC). In addition, Barbara Schäfer, Head of Cooperation with the AU of the German Embassy in Ethiopia, and Dr. Mahama Ouedraogo, Director of AU DHRST, delivered their statement. Dr. Ouedraogo expressed gratitude to the SCBD and the ABS Initiative for having worked so well on ABS in the African region sustaining the collaboration with the AUC and reiterated the AU's commitment to support the COP host country Egypt and to coordinate meetings of the African Group. All presenters wished the participants fruitful discussions during the next days.

Introduction to the workshop

The workshop facilitator Mr. Hugues Quenum gave participants a brief overview of the programme. Following this, there was an interactive round of introduction of participants.

The Nagoya Protocol's bilateral approach to ABS

The objective of this session was to revisit the NP's bilateral approach to ABS, the user-provider interface and the core provisions of the NP, such as PIC, MAT and compliance.

Video on ABS monitoring and compliance

In order to do so, Matthew Dias (SCBD) provided participants with an introduction to the monitoring and compliance system under the NP. Following this, a "simply explained" video on monitoring and compliance produced by the ABS Initiative in collaboration with the SCBD was screened. The [video](#) is available in English, French, Spanish and Arabic.

The user-provider interface on ABS

Providing a background for the group work, Suhel al-Janabi presented a model of the interplay between providers, users, and regulators as established by the NP.

The key messages of this session were the following:

- The term regulator which is used in the Simply Explained video refers to the Competent National Authority (CNA). The NP allows countries to establish one or more CNAs.
- The lack of BS and compliance measures provides concrete evidence that the implementation of the NP is not effective. A global multilateral benefit-sharing mechanism (GMBSM) may be the adequate solution to address challenges regarding implementation.
- There is a need for a better understanding of the compliance and monitoring mechanism of the NP. Further capacity development could increase the understanding of these mechanisms.



- Many NP member states have adopted ABS legal systems but are not in the position to issue the necessary documents (PIC, MAT, ABS permit). This hampers scientific and commercial research collaboration with EU users. The EU ABS Regulation establishes a monitoring system to for users to notify the checkpoints about the user's compliance with ABS legislation of the provider country. If the respective documents cannot be issued by the provider country, utilisation in the EU would be illegal. A movement towards implementation at national level is therefore key.
- According to Article 6 NP, MP member states need to have established legal provisions in order to issue ABS permits. However, depending on the respective national administrative procedures, countries may also issue permits without a legal ABS framework in place. African countries that have not yet set up an ABS framework could -as ultima ratio- refer to the AU Guidelines which were adopted by the Assembly of Heads of State of the AU, the highest political body in Africa. In any case, countries must publish their relevant ABS procedures on the ABSCH.

Analysis of African National Reports

Hartmut Meyer (ABS Initiative) provided an analysis of the Interim National Reports, which was undertaken by two experts of the ABS Initiative. The presentation highlighted mismatches between given answers and explanatory texts, which is an indication that NP topics are being misunderstood, in particular regarding compliance, checkpoints and special considerations. Moreover, many positive answers are not backed with documents on the ABSCH.

In the ensuing discussion, many participants found the questionnaire very useful, e.g. in respect of awareness-raising on ABS. Some saw the questionnaire as an excellent starting point, highlighting that it allowed them to identify challenges in the implementation of the Nagoya Protocol as it showed the key requirements that are needed for implementation. However, some ABS focal points faced difficulties when answering the questionnaire. The possibility of only giving yes or no answers made it difficult for focal points to provide correct answers. The questions leave a lot of room for (mis)interpretation which does not match the simple yes / no scheme.

Matt Dias explained that the reporting format will be reviewed and improved by the Secretariat. To improve the questionnaire, it was recommended to revise the structure and wording of the questionnaire using professional expertise in questionnaire development, to include optional explanatory texts for each question to increase precision of answers given and to adapt the analysis tool to give percentages with regard to the number of national reports.

The key messages from this session are the following:

- The first review and assessment of the effectiveness of the NP is very important. It will be a key reference point to determine the future of the Protocol.
- The National Interim Reports are an important awareness raising tool and may help sensitize other relevant actors on ABS. Coordination at national level was considered crucial in order to provide qualitative answers to the questions in the report. Filling out the national reports should ideally be a consultative exercise as opposed to a one-man-show. Swaziland for example held a national consultation workshop with 15 relevant stakeholders.



- The efficacy of the NP as such and the efficacy of a country to implement the NP is not the same. Deficiencies in the implementation of the NP may be caused by challenges of a structural kind that cannot be addressed with more capacity-building (financial resources, skills, staff). It is important for the African Group to attend COP / MOP with a better understanding of the relevant shortcomings regarding NP implementation and to present an ambitious programme.
- Effective communication between government institutions in charge of these processes and better coordination at the level of the AUC is essential to ensure a consistent African position.

Group work

The objective of the group work session was to identify challenges to the effective implementation of the NP and to propose potential changes in this regard, the Results of group work during Day 1 are contained in the Annex. Four groups reflect on three questions:

- identify challenges to the effective implementation of the NP that could be addressed through more or better technical capacity development and propose specific concrete capacity development activities that might be considered in this regard
- discuss challenges to the effective implementation of the NP that could be addressed through more or better coordination at the national, sub-regional or African levels. They were asked whether they have specific suggestions about how this might be achieved.
- identify challenges to the effective implementation of the NP that are inherent to the current structure of the international ABS regime and propose potential structural changes that might be considered in this regard.

Action points of Day 1:

- Improve the reporting format of the National Interim Reports.
- Ensure effective communication between government institutions for a consistent African position.

Day 2 - Tuesday, 2nd October 2018

International Processes and Recommendations of 2nd Meeting of the Subsidiary Body on Implementation

This session gave participants an update on international processes, i.e. specialised forums which deal with negotiations concerning genetic resources at the international level. These included the FAO ITPGRFA, WIPO IGC 33-37, FAO CGRFA and the WHO PIP Framework.



Food and Agriculture Organisation of the United Nations (FAO) International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)

Pierre du Plessis (Technical Advisor to the African Group) provided participants with an update from FAO ITPGRFA. The International Treaty is recognized in the NP as part of the international regime on ABS. Many African countries are Parties to both documents. The Treaty has a multilateral BS mechanism, i.e. benefits resulting from GR and ATK are not shared with the provider countries but facilitated access is regarded as benefit sharing per se, for specific cases, a BS fund is established which only recently received its first payment from a user. A working group established in 2013 is negotiating measures to enhance the functioning of the multilateral system and in future there could be a “subscription system” under which users pay a percentage of current seed sales to the fund. A separate system that will allow users to have occasional (limited) access is also being negotiated. At the last Governing Body (GB7) in 2017 in Rwanda, Switzerland proposed to expand the multilateral system to all PGRFA, but Africa blocked this proposal. Further, the issue of DSI has been raised in discussions as it is particularly relevant for the Treaty. The Treaty has a global information system and is currently developing “Digital Object Identifiers” which makes it much easier to find information and attach it to particular accessions. Under a subscription system DSI and IP would be covered for subscribers, as it is reflected in their sales and captured in their subscription, but the question remains how to deal with non-subscribers. Africa’s position is to allow open access to all / most PGRFA in exchange for a low flat rate of global seed sales (0.3%, maybe 0.1%). Industry is undertaking to subscribe, but at a very low (0.001%) rate, with lots of pre-conditions. At the next Governing Body (GB8) in 2019 a decision needs to be taken, otherwise it is unlikely that the mandate of the Working Group will be extended.

FAO Commission on Genetic Resources for Food and Agriculture (CGRFA)

Hartmut Meyer updated on the work of the CGRFA. He informed participants that the International Treaty only concerns a certain set of plants. Other plants and all animal, aquatic, invertebrate and microbial GRFA do not fall under the multilateral system of the Treaty. In 2009, the CGRFA asked the CBD for differential treatment of GRFA. Two years later an Ad Hoc Technical Working Group on ABS for GRFA was set up to identify relevant distinctive features GRFA. From 2013 to 2014, a team of technical and legal experts on ABS prepared elements to facilitate domestic implementation of ABS for different subsectors of GRFA, which was welcomed by FAO in June 2015. In 2017, CGRFA 16 initiated the elaboration of subsector-specific elements to facilitate domestic implementation of ABS for different subsectors of GRFA and a new work stream on “digital sequence information on GRFA”. An international workshop on ABS for GRFA elaborated non-prescriptive explanatory notes for ABS elements in 2018.

World Health Organisation Pandemic Influenza Preparedness (PIP) Framework

Pierre du Plessis held a presentation on the WHO PIP Framework, which is the only global ABS instrument that is generating substantial benefit-sharing (30 million USD from the pharma industry, used to strengthen surveillance and preparedness in vulnerable regions). The PIP Framework was the first international ABS forum to seriously discuss DSI. Some Parties want to expand the scope of the PIP Framework to seasonal flu viruses, or even to develop a specialized ABS instrument covering all



pathogens (recalling Article 8 NP). It is widely accepted that a negotiated agreement is needed but there is currently no connection between national NP implementation and the PIP Framework although this is crucial for the upcoming negotiations. Pierre du Plessis urged the African Group to engage in discussions with the national focal points from the WHO.

WIPO Intergovernmental Committee (IGC)

Margo Bagley (Emory University of Law, USA) informed participants that the IGC undertakes negotiations with the objective of reaching agreement on texts of international legal instruments, which will ensure the effective protection of traditional knowledge (TK), traditional cultural expressions (TCEs) and GR. Prof. Bagley highlighted that IGC arose out of a movement in 2000 when WIPO, a UN organisation tasked with protecting IP around the world, negotiated a patent law treaty. Some countries were concerned about the disclosure of GR and ATK and wanted to take the disclosure requirement out of the patent law treaty. Discussions on this subject matter are still ongoing and not a lot of progress has been made in this regard. Currently there are three draft texts that are being negotiated at WIPO: a text requiring mandatory disclosure of origin, a text calling for a sui generis regime for TK and TCE and a text on GR. Mrs Bagley indicated that many countries have disclosure of origin provisions in their national laws, but they only require disclosure of their own GR. Mrs Bagley also stated that DSI was introduced to the IGC and specifically to the GR text. This however was not well received. With respect to TK, the approach of the African Group is the following: TK is dynamic. It is rather the context than the age that determines whether something is TK or not. As to the nature of protection for TK, the African Group promotes a tiered approach: TK that is secret or sacred receives the highest form of protection while widely dispersed TK receives a lower form of protection.

Panel discussion

The objective of the following panel discussion was to share experiences and insights from the AU Commission and the last meeting of the African Ministerial Conference on the Environment (AMCEN). Participants were informed that the AUC has set up a continental coordination committee on biodiversity following a decision by AMCEN. In 2011 a first decision of African Heads of State was taken to prioritise biodiversity issues within the region. AMCEN further adopted several instruments that support implementation of the CBD. The specific issue of interest are the 2015 AU ABS Guidelines. It was also recommended that different actors stepped in to coordinate the support that they give to the AU member states. It is composed of 5 key departments (DHRST, Department of Rural Economy and Agriculture, Department of Trade and Industry, Office of the Legal Council and the Department of Social Affairs) that have cross-cutting mandates with relevance to the CBD and its Protocols. At the AU regional level these include: the AU Scientific Technical Research Commission (STRC), the AU Inter-African Bureau for Animal Resources (AU-IBAR), AU New Partnership for Africa's Development (NEPAD), its African Biosafety Network of Expertise (ABNE), and UN agencies such as UNEP, Africa wide initiatives such as the ABS Initiative and the Central African Forest Commission (COMIFAC). Another panellist reported on aspiration No. 7 of Agenda 2063. In order for Africa to become a global player, technical know-how is needed to be able to present the arguments of the African Group. Since biodiversity affects actors from many different sectors, effective coordination efforts are necessary



with a view to bringing all relevant stakeholders together. In addition, a focus needs to be put on strategic leadership because the policies of the various instruments relating to GR are inconsistent. All panellists acknowledged that the AUC as the Secretariat of the African Member States has a key role to play in this regard (e.g. in aligning such decisions).

Overview of SBSTTA 22 and ABS-related SBI 2 recommendations

Matt Dias provided an overview of agenda items for NP MOP 3 as well as issues for consideration (see also <https://www.cbd.int/conferences/2018/>). He informed that there are currently 111 NP ratifications (latest: Saint Kitts and Nevis, Tuvalu). 43 out of 54 (80%) of African countries have ratified the NP. In 28 countries the process is underway, and 33 countries are planning to ratify the NP. Many countries are still in the process of establishing institutional arrangements and measures at the national level. Mr. Dias highlighted that the upcoming COP / MOP is important because the implementation of the Protocol will be assessed and reviewed for effectiveness and it is time to develop a long-term strategic framework for capacity building post 2020 and post 2020 biodiversity framework. Before concluding, Mr. Dias provided insight into key draft decisions and called upon the African Group to provide substantive input to this process.

Plenary discussion

The following is a summary of the issues discussed in the plenary:

- As the discussions on draft decisions from SBSTTA and SBI are still ongoing, an appeal was made to the workshop participants to attend all African Group meetings during COP / MOP.
- The decisions of SBSTTA and SBI are not binding because they are advisory bodies. Changes to these decisions should be introduced by Parties in the first reading at COP / MOP.
- Positioning ABS in a broader context (linkages to SDGs, Agenda 2063) is crucial to avoid ABS silos.
- There needs to be better coordination between ABS NFPs and WHO NFPs in order to avoid the negotiation of a pathogens instrument without any reference to the NP aside from Article 4.4.
- An African coordination mechanism is useful but needs to have sufficient resources to function well. Experience has shown that many structures that have been set up in Africa do not function well due to lack of financial resources.
- Coordination has been challenging because of the lack of financial resources for meetings, political instabilities (ABS NFPs come and go) and follow-up (recommendations are often adopted but not implemented). Organisations in charge of implementing coordination do not necessarily have the means to do so.
- Biodiversity is a prime issue for Africa. The AUC has a role to play in improving communication and coordination between fora and institutions at national level. The AUC is encouraged to prepare a letter that supports coordination on biodiversity-related topics at national level.
- The fact that a pathogen is in an ex situ collection puts it under the respective national jurisdiction. If the national law requires a user to get a permission to access this pathogen, the



user is required to obtain a permit. Whether it is advisable to develop a specialised instrument for pathogens is yet to be discussed.

- Resource mobilisation is a key element of the Continental Coordination Committee.

Introduction to the online coordination tool

This session focused on the online communication system prepared for coordinating African biodiversity negotiations. Introductory explanations of this system were provided by Pierre du Plessis, followed by a recorded demo video by Steve Kromberg and Michael Salzwedel. The online coordination tool is supported by the ABS Initiative in partnership with the AU DHRST.

The system can be used for various international environmental negotiations, enhancing the impact made by African biodiversity negotiators, in an economical and efficient way. In the past, documents were created and shared using Microsoft Word and many back-and-forth emails. This has proved difficult to manage and very time-consuming. The new system uses freely-available online tools that are simple to use, cost-effective and time-saving. It is designed to enable online collaboration, so that all participants can see the same version of the document online at the same time, with all changes neatly recorded. There are five main components of the system: email, document management, online meetings, discussion groups and user support. Pierre du Plessis informed participants that a Google Account is needed to use the system. It can be set up at google.com/account. Detailed videos exist covering each of the five components of the system.

In the following Questions and Answers session, the following points were clarified:

- There is a great need for coordination in the African Group. The AU encourages all ABS NFPs and negotiators to actively use the African online coordination system. It is a valuable tool for negotiation purposes but could also be used for sharing best practices and experiences on ABS implementation in the long run.
- The online coordination tool is governed by the AU. The ABS Initiative has no access to this tool.
- The online coordination tool has three levels of document edits: view only; comment; edit. Links can be included in the document itself or in the comment section of the document. Depending on the access level that has been granted, the users of this system will be able to make comments and suggest changes. The rules of engagement still need to be fleshed out.
- Online meetings can be set up using Google Hangouts or similar services.
- The tool provides for online discussion groups using Google Groups, with specific topics and sub-topics where negotiators can engage with each other (e.g. for informal conversations, text-based discussions). Various groups can be created with different access levels for members.
- Tool support is available through online slideshows, videos, written manuals, online meetings and on-demand support through emails or calls.
- The online tool has a translation feature. The translation feature is an interim solution and should not be used as an official translation.



- WhatsApp groups have proven useful during COP negotiations for a quick exchange of views. The organisers of this tool offered to set up a WhatsApp group function to facilitate communication during COP / MOP.
- The organisers will create an address book in the online tool.

Plenary discussion

Back in plenary, several key points were made:

- Members of the tool can set up a subsystem within the tool to create their own groups, enabling them to share documents with the entire African Group when they are ready to do so.
- Participants asked for discussion groups in the tool to prevent full email inboxes. The tool uses a system called Mailchimp which has several key functions. For example, it allows members to check whether a message has been read by other members in the group.
- Participants were advised not to share confidential or sensitive information through this tool because as with any other system it cannot guarantee 100 % security.
- The tool gives the African Group the opportunity to play its coordination role more efficiently.
- In the long run, this tool could be used as a success project to model other forms of negotiation. The system could be sustained through fees.

Action points of Day 2:

- The online coordination tool for coordinating African biodiversity negotiations will be adapted to include new features (WhatsApp Group, address book).
- The AUC shall consider preparing a letter that encourages coordination on biodiversity-related topics at national level and underlines the need for exchange among different institutions

Day 3 - Wednesday, 3rd October 2018

Digital Sequence Information: What is it all about?

The objective of this session was to create a common level of knowledge concerning basic DSI issues.

Pierre du Plessis gave a basic introduction to digital sequence information on genetic resources (DSI). He informed participants that DSI is not an established term that has an agreed meaning. “Digital” means it is stored in binary electronic code on a computer system. It can easily be analysed, searched, copied and distributed. The “sequence” is the order in which (naturally occurring) biochemicals are arranged to make gene, genomes, proteins, etc. Order determines function. It can be “read”, copied, compared and edited. The sequence does not only have to refer to DNA, RNA or functional units of heredity. It can refer to any sequence data that is derived from a natural or biological resource. “Information” has different meanings at different levels. For example, there is raw “genetic sequence



data” (as industry calls it) that can be “read” and compiled into longer “stories”. There are also annotated gene sequences. Annotation is the process of identifying the locations of genes and all of the coding regions in a genome and determining what those genes do. Mr. du Plessis explained that nowadays we have a DSI technology explosion which is largely driven by the pharmaceutical and medical research industry. With respect to sequencing, the first human genome took 10 years and cost 2.7 billion USD. This can now be done in less than a day for under 1.000 USD. Hand-held micropore sequencers are now available that can be carried into the field. These developments (cheap sequencing, computer explosion, gene printing, new technologies that “cut and paste” with high accuracy) open the possibility of bypassing access to GR when the user has access to the sequence.

DSI for basic research

Dr. Chris Lyal (Natural History Museum,UK) gave a presentation on DSI for basic research. Digital sequence data are of major and increasing value to taxonomists globally. The use of the data can directly support implementation of the CBD. DSI is used for species identification, description and phylogenetic analysis; taxonomists obtain molecular sequence information from GR accessed with PIC and MAT, but also from collections, in-house databases, and public databases; they use DSI non-commercially for identification of endangered, invasive or unknown species, and for environmental management; this use delivers non-monetary benefits such as capacity building, taxonomic information and collaboration. No country holds sequence data for all its known biodiversity, hence the need for freely available global databases. DSI is increasingly valuable to taxonomists globally; its use can directly support implementation of the CBD and national priorities. A key challenge is to build the capacity of the Parties to make better use of data and information shared through a global system.

Basic legal aspects of the Nagoya Protocol, ABS and “DSI”

The presentation of Margo Bagley (Emory University, USA) addressed legal aspects of the Nagoya Protocol, ABS and “DSI”. There are two main views regarding DSI and the scope of the Nagoya Protocol: **According to industry / users** neither the phrase “genetic resources” nor the phrase “utilization of genetic resources” should encompass DSI; it is outside the scope of Nagoya. Their concern is that restricted access to GR / DSI is inhibiting research / technological advances and would lead to expanding monetary obligations, legal liability (e.g. from disclosure obligations) and legal uncertainty (e.g. patent rights). In the user’s opinion, barriers to the sharing and use of DSI would discourage innovation and scientific research. Mrs Bagley also shed light on the terms “public domain” and “publicly accessible”. “Public domain” in IP refers to information that, under national law, is deemed outside the scope of a particular IP regime. For example, copyrighted material after the copyright term has ended is in the public domain and free for anyone to use. Scientific information, such as “DSI,” that is publicly accessible may not be free to use if still covered by an unexpired patent or subject to ABS obligations. Providers agree everyone benefits from advancements enabled by open “DSI” sharing, however, that should not preclude monetary benefit-sharing. For example, the public benefits from many patented technologies, that does not mean the patent holders are not entitled to monetary benefits. **According to providers / civil society**, either the phrase “genetic resources” or the phrase “utilization of genetic resources” should be deemed to encompass DSI. DSI is thus within the scope of Nagoya; and purely non-monetary benefit sharing for “DSI” is not acceptable. Important consequences



flow from which source of NP scope coverage is chosen. The question whether DSI is within the definition of GR / genetic material or whether it results from utilization of GR / GM has implications: if genetic material or genetic resource includes “DSI” then PIC and MAT and benefit-sharing attach and dramatically complicate the legal use of DSI (due to different ways of using, vast amounts for screening, portions of many sequences, etc.). However, if the definition of GR / GM does not include “DSI,” but “DSI” results from utilization of GRs, then only benefit-sharing obligations would attach. BS could potentially be handled under a GMBSM as foreseen in Article 10 of the NP. The bilateral model of ABS and DSI (tracking, compliance, value) fits poorly. DSI utilization is more difficult to track than GR utilization because there is no robust tracking system, there is a wide use of partial sequence combinations, the use of sequences form vast numbers of organisms, the same sequence may occur in multiple organisms, there is a growing “do it yourself” / open source synbio community and there is a use of trade secrecy instead of patents. All challenge the bilateral ABS approach.

In the subsequent Questions and Answers session, it was reiterated that the issue of DSI is quite complex and globally there is not much consensus on its definition. Recalling the African position there was a proposed definition for DSI which has already been discussed with other provider countries (e.g. Brazil). Participants agreed that during COP/MOP the African Group should insist that DSI is part and parcel of the NP. However, the question that is yet to be resolved is how the African Group can ensure that DSI is not used to misappropriate and bypass national legislation. A multilateral system was brought forward as a viable approach. It also emphasised that genetic inventory may be useful for tracking the origin of DSI from which the GR originates.

DSI: Relevance for ABS implementation

Hartmut Meyer gave participants a brief overview of the state of play of DSI in different international ABS-related processes (UNCLOS, ITPGRFA, FAO, WHO PIP) with a view to creating a common level of knowledge about DSI and its relevance for ABS.

GR and DSI in UNCLOS

Mr. Meyer informed participants that stakeholders in agriculture and science assume that GR were always Common Heritage of Mankind, and only recently are under the sovereignty of States. He indicated that FAO Resolution 4/89 recognises that “plant genetic resources are a common heritage of mankind to be preserved, and to be freely available for use, for the benefit of present and future generations”. But the UN General Assembly and many legal cases in the field of human rights decided that land and natural resources are under control of people living on the land. Resolution 1803 (XVII) 1962 of the UN General Assembly declares the “right of peoples and nations to permanent sovereignty over their natural wealth and resources”. It is internationally agreed, that the concept of Common Heritage of Mankind relates to areas beyond national jurisdiction (High Sea and Antarctica). The negotiation process in UNCLOS started in 2015. After a long process, the UN General Assembly decided on the “Development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction”. An Informal Working Group on Marine GR also referred



to the issue of DSI. Before concluding, Mr. Meyer gave an update of the negotiations of the Internationally Legally Binding Instrument (ILBI).

DSI in the ITPGRFA of FAO

At the 7th Session of the Governing Body of the International Treaty, DSI was discussed in the context of revising the Standard Material Transfer Agreement (SMTA). Regional Groups welcomed preparation of a Co-Chairs consolidated text of the revised SMTA, but at the same time were not ready to engage in negotiations on the basis of this proposal at this meeting. Co-Chairs explained how their proposed consolidated text for the revised SMTA made provision for the concept of DSI to be reflected in the revised SMTA through a new definition of “genetic parts and components”. However, there was no consensus at this meeting on if and how to reflect issues related to DSI in the text of the revised SMTA. The Multi-Year Programme of Work of the Governing Body of the International Treaty decided that there should be a workflow on DSI. A scoping study from 2017 highlights potential implications of new synthetic biology and genomic research trajectories on the ITPGRFA. Among others it recognizes the need for greater consideration of downstream (e.g. finished product) as opposed to upstream (e.g. access limitations) BS models. The study thus provides a good background on the topic and its conclusions – while focusing on the Treaty – may also be relevant for the CBD.

DSI in the CGRFA of FAO

The Sixteenth Regular Session of the CGRFA in 2017 established a new work stream on “DSI on GRFA”. An exploratory fact-finding scoping study on DSI on GRFA is under preparations. Member States are requested to submit information on the use of DSI on GRFA and this will be discussed in 2019 at the Seventeenth Regular Session.. In this context, Mr. Meyer underlined that linkages also need to take place at national level in order for all relevant stakeholders to be informed.

NP and WHO PIP Framework

In 2016, the WHO PIP Secretariat prepared a study to analyse how implementation of the NP might affect the sharing of pathogens and the potential public health implications. It was argued that infectious disease response relies on ongoing surveillance, timely risk assessment, public health control measures, and access to diagnostics, vaccines and treatments. This requires both rapid sharing of pathogens and fair and equitable access. The two elements, which are equally important, are both promoted by the NP, which clarifies and harmonizes legal obligations regarding access to genetic resources, and establishes a more equitable approach for sharing the benefits derived from their use. In this way, the NP can be supportive of pathogen-sharing. Mr. Meyer advised countries to consider these emergency situations when setting up their national ABS laws. So far, there is essentially no contact between those who draft ABS laws and those working on health emergency situations.

When concluding, Mr. Meyer stated that the process of DSI at the CBD is lagging behind. At the level of the CBD there is a huge variety of researchers and interests and this is also reflected at the policy level. After COP / MOP it would be important to discuss in more detail which sectors are relevant for DSI and how to prevent that science is being hampered.



In the Questions and Answers session, participants discussed the following issues:

- The issue of genetic information was raised by the African Group during the NP negotiations, although it is not reflected in the actual text of the Protocol. DSI was seen as the output of the utilisation of GR, thus falling in the scope of the NP. Participants agreed that this message needs to be driven consistently by the African Group at all occasions during COP / MOP and beyond.
- At the level of the CBD, countries are free to include DSI in their national legislation or in their ABS contracts. At the international level it can be discussed whether the NP should be amended to include DSI. Many countries might be hesitant to amend their national legislation if the issue of DSI is not included at international level in the NP.
- Tracking of GR in the context of DSI is a challenge and cannot easily be addressed. It is very difficult to develop a tracking mechanism down to the source (not the product). Whether databanks should make the disclosure of the country of origin a requirement could be discussed.
- Mutually Agreed Terms (MAT) could be used to control DSI, but the potential implications for African researchers should be discussed. The idea that BS will only follow after access has been granted is a user construct which may not be the best approach. It is advisable to look for a multilateral solution because it takes the benefits from where they are created and shares them with whoever is supposed to receive the benefits.
- Consensus exists among participants that DSI should trigger BS.

DSI: ABS approaches and options

The objective of this session was to develop concepts on how to ensure BS when utilizing DSI. In his presentation, Pierre du Plessis urged the African Group to quickly conclude DSI negotiations, indicating that the price of sequencing is dropping dramatically. Most of it ends up in public databases and is therefore publicly available without any BS arrangements. By using MAT it is possible to control the effect of future sequencing through BS arrangements. Mr. du Plessis also argued that an international agreement on the use of DSI is needed and suggested opening up the discussion of a GMBSM around the issue of DSI. This mechanism could trigger a pre-determined benefit share on DSI which would be paid to global multilateral BS fund to support conservation and sustainable use.

Plenary discussion

Back in plenary, the following points were raised:

- The bilateral and multilateral ABS systems are not mutually exclusive. A multilateral system would not replace the bilateral system because there is no real substitute for the physical access of GR. The physical access of genetic material would continue to fall under the bilateral system. The multilateral system is rather a last resort for those issues that cannot be well addressed through the bilateral approach (e.g. resources from High Seas, transboundary resources etc.)
- The global mechanism is a mechanism within the NP itself and can be used to overcome the challenges of the bilateral approach. Perfume makers, for example, make high profit margins but they include ingredients in their products that come from many different countries. Currently



there is no BS due to the high transaction costs involved from getting PIC and MAT from every single country. This could be addressed through a multilateral approach.

- Article 10 is part of the NP and it was proposed by the African Group. A COP decision could clarify that the NP rules apply to DSI. If that was not acceptable, the African Group could negotiate a supplementary Protocol which would only apply to those countries that ratify it.
- There was consensus that DSI should fall under the scope of the Protocol. Benefits for DSI should include monetary and non-monetary benefits.
- The African Group needs to be well prepared for the DSI negotiations at COP / MOP. While consensus exists among the African Group that DSI falls under the scope of the Protocol, there are legal opinions (e.g. from Germany) that state otherwise. It may be best for the African Group to bring forward the argument that DSI is a product of utilization of GR (and not engage in the discussion on the term “material”).

Action points of Day 3

- Participants requested the ABS Initiative and / or DSI experts to join the negotiations at COP / MOP with a view to supporting the African delegation. The ABS Initiative is open to supporting Africa in this matter.

Day 4 - Thursday, 4th October 2018

Global Multilateral Benefit-Sharing Mechanism (GMBSM) and Post-2020 Strategic Plan

The objective of this session was to discuss cases that show the need for the GMBSM and options for its modalities to strengthen the African position at COP 14 and COP / MOP 3.

Pierre du Plessis provided participants with an overview of the history of development of Article 10 and its roadblocks. He highlighted that Africa has had a long-standing focus on BS in various negotiations. Difficult issues of scope concern ex situ collections, shared GR and ATK (transboundary), temporal scope (pre-CBD; post CBD-but pre-Nagoya; new and continuing uses), High seas and Antarctica. Article 10 was first introduced by the African Group at the ABS Working Group 9bis in Montreal. It was informally distributed to negotiating partners but not tabled or discussed due to fears that it could be used to delay negotiations. Mr. du Plessis highlighted that it is of paramount importance to demonstrate the need for a GMBSM and make use of the political process in between COP 14 and COP 15 to allow for the discussion of modalities with respect to Article 10 NP.

Following Pierre’s presentation, participants were asked to form five groups with a view to:

- discuss examples showing the need for a GMBSM (by referring to the zero draft paper written by Lactitia Tshitwamulomoni, ABS National Focal Point for South Africa)
- brainstorm potential modalities



- discuss how to supplement, not displace, the bilateral ABS approach
- discuss who decides whether a case is in or out
- discuss who decides (how?) what gets funded
- reflect on administration and governance

The first group addressed two cases. The first case involved genetic information that is found in research institutes (e.g. museum). This information had been collected a very long time ago and belongs to several countries. The group recommended using the multilateral approach in this situation. There should be a review of the agreements that were concluded in the past. The second case involved resources that are shared in national parks among several countries. Using PIC and MAT in this case would be very difficult. The group thus proposed using a multilateral fund in order to implement ABS. The revision of agreements of the various countries was also proposed.

The second group focused on shared resources because the participants shared different ecosystems (marine resources, wildlife, forest resources and TK). There could be an instrument between various stakeholders under a multilateral system but not all participants in this group agreed because they feared such a system may become too complicated. The group highlighted the need for an inventory of TK and shared resources. Resources and TK should be listed, defined and described. With respect to DSI and pathogens, it was agreed that a multilateral approach may be the best solution.

The third group considered DSI as being part of the utilisation of GR that could fall both under the bilateral and the multilateral system. For those GR whose origin cannot be established, Parties were encouraged to undertake a mapping of the resource in question. Regarding administration and governance, the group recommending following the processes of the Global Environment Facility.

The fourth group highlighted the need for a GMBSM. They considered it useful in particular for species found in the High Seas, in global commons or species beyond national jurisdiction. Regarding modalities for a BS mechanism, reference should be made to the Treaty but also to other frameworks that exist. The group proposed developing an annex of species of concern which could be candidates for consideration under the multilateral system. Regarding DSI, they advised creating a pool of benefits for countries of origin, especially where the combination of sequences originates from more than two countries with a view to sharing the benefits with each country.

The fifth group considered the multilateral system as a solution to the issue of transboundary resources. Transboundary cooperation may be hindered by a political situation or other reasons. In that case the multilateral approach may be the solution.

Below is a summary of the key points mentioned by the five groups:

- Call for a multilateral fund to implement ABS which could be administered by the AU or SCBD.
- Call for a regional mechanism or instrument that may be set up to administer ABS in specific cases. The AU was called to administer such ABS transactions in specific regions.
- Concerning the modalities of a GMBSM the African Group should consider the model of the Plant Treaty and its global mechanism. The example of a standardised BS mechanism was mentioned. Enforcement and compliance measures need to be element of a future mechanism. A regional fund administered especially with regards to benefits coming out of patents was proposed.



- To use regional economic communities (within Africa) as key players since they have legislative mandate with respect to trade issues and benefit emanating from utilization of transboundary resources may also be under their mandate in which case such regional trading blocs may administer such a regional mechanism.

Plenary discussion

- Users need clarity on how to access GR and aTK whether it occurs under a bilateral or a multilateral approach. The multilateral system caters to the reality of shared / transboundary resources. The multilateral mechanism of the International Treaty provides a good example. ABS fund and Governing Body sets criteria (the money goes directly into conservation and sustainable use, e.g. climate change adaptation activities).
- Some industry representatives support a global multilateral approach because it can significantly lower transaction costs.
- There is a need for a discussion on terminology. The understanding of the terms “monetary” and “non-monetary” benefits may differ. From a user perspective, building a school is a non-monetary benefit. For providers it can be seen as a monetary benefit because school fees need to be paid. Capacity building also comes along with costs in many cases.
- The multilateral system should not undermine the bilateral system as agreed by the first Ad Hoc Technical Expert Group (AHTEG) on Digital Sequence Information on GR.
- A multilateral system will not undermine the national sovereign control over access to resources. The relationship between the multilateral and the bilateral system is not a stark system; there are subtleties that can be exploited. It must be a sovereign decision whether a country puts resources into the multilateral system. The African Group should make the argument that the system is voluntary for providers, but mandatory for users.

African views on draft Strategic Plan

The objective of this session was to analyze the NP relevant elements of the SBI recommendations on the Strategic Plan and start developing African input for COP 14 and COP MOP 3.

Historical recap and link to SDGs

Suhel al-Janabi presented a short history of GR in international processes, BS and the strategic goals of the CBD, BS and the Sustainable Development Agenda. He informed participants how ABS supports Agenda 2030 implementation and potentially contributes to attaining its SDGs. He highlighted that there is a direct reference to ABS in target 2.5 and target 15.6 of the SDGs. Mr. al-Janabi stated that BS is important from a socio-economic perspective and it plays an important role in meeting the strategic goals of the CBD. When concluding his presentation, Mr. al-Janabi emphasized that biodiversity and BS are part of the global sustainable development agenda globally. Looking forward, SBI recommendation 2 /19 made proposals for a comprehensive and participatory process for the preparation of the post-2020 global biodiversity framework.



Key points from this session:

- In some cases donors impose their own agenda in provider countries. Providers would like to see more flexibility regarding national activities.
- A challenge of the 2020 Strategic Plan relates to the fact that the Plan does not acknowledge that BS serves as an incentive for conservation and sustainable use. Unfortunately, unsustainable forms of economic development remain more profitable.
- ABS NFPs must be included in developing the Strategic Plan because ABS is a cross-cutting issue.
- Participants were encouraged to make use of the following resource to identify colleagues that link ABS and the SDGs: <https://post2020.unep-wcmc.org/>

Prudence Galega from Cameroon was invited to provide her views and insights on the post 2020 framework via Skype. She highlighted that COP 14 will focus substantively on developing a post 2020 framework and urged the African Group to clearly define its priorities. She advised the African Group to develop a strategy plan with set indicators linking ABS with the SDGs. She remarked that most countries have made efforts to put in place national SDGs and priorities but highlighted the need for effective implementation of these goals. She further appealed to her African colleagues to push for a process that aligns the NP targets with the national SDG policies. Whether a separate strategic framework for the NP alongside the CBD framework is needed is yet to be discussed. Mrs Galega recommended designing a model that highlights ABS priorities through indicators that are fixed with the global biodiversity framework as an incentive for conservation and sustainable use. She fears that ABS is moving into a silo because it is often seen as a separate process in terms of policies that are being developed. She reminded participants that the three objectives of the CBD are interdependent, and the three pillars are standing equally. As guidance for the African coordination group meetings taking place in the afternoon, Prudence Galega highlighted that three key targets are very important, namely (1) the development of policy measures and its implementation, 2) indicators for monitoring and compliance that call for a stronger monitoring framework within the CBD and 3) a national finance mechanism for ABS, such as a window for ABS implementation within GEF.

Challenge and relevance for Africa

Mahlet Kebede (AUC) provided participants with an overview of the linkages between the SDGs as it relates to ABS and the AU Agenda 2063. She gave participants a brief history of the development of Agenda 2063 which is based on the aspirations and present commitment of AU leaders to build an integrated, prosperous and peaceful Africa. She informed the meeting that decade long strategies under each delivery sectors of the Commission are targeted towards implementation of the AU Agenda 2063. She concluded her input by informing participants that the AU will take on this project of alignment of these different global and regional processes through its mandated departments.

In the ensuing discussion, participants argued that although ABS is not very prominent on the political agenda of many countries, all countries have subscribed to the international agenda for sustainable development. Participants discussed how the linkages of ABS and the SDGs could help improve the profile of ABS at national level. In some countries (e.g. Madagascar) the SDGs have been taken into account into national planning strategies. Algeria has started working on the implementation of the



SGDs since 2016 but sees the need to register ABS within the SDG framework, conduct more sensitization activities regarding ABS and provide examples of benefits that are shared through ABS. Participants agreed that political will at the higher level is a key criterion. In this context, the ABS Initiative was commended for its job in reaching out to policy and decision makers.

Key points that were raised in this session include:

- Apart from communicating the importance of ABS to IPLCs, SMEs and ministries also higher ups and heads of states must be informed to making them link it to their national priority agendas.
- The only way to advance on contentious issues related to the implementation of the NP is to list them in a strategic plan. This plan should include timelines.
- There is still no proof of principle on ABS. So far there are only figures of lost gains (e.g. Rosy Perywinkle from Madagascar). The participants were urged to set up national ABS systems to be able to provide PIC and MAT. Otherwise there will not be any success stories. There are too little actual benefits which explains why sectors outside environment and biodiversity fail to imagine whether there is in fact a return on the investment of ABS. It is important to show the economics of ABS (“ABS as a financial solution”) which will make the integration into the sustainable development agenda a lot easier.
- Many participants believe that only access is well regulated at national level. BS and monitoring and compliance are better regulated at international level.

At the end of the day, Hartmut Meyer advised participants to get in touch with Ms. Maria Crespo at visa-cop14@cbd.int in case they encounter problems with visa for the upcoming COP / MOP. For further information, please refer to the information note for participants at <https://www.cbd.int/doc/meetings/cop/cop-14/other/cop-14-info-note-en.pdf>.

Action points of Day 4:

- Development of a briefing document compiling the inputs of the African Group. This document is to be shared through the online communication tool.

Day 5 - Friday, 5th October 2018

ABS Clearing House and Way Forward

ABSCH as the instrument of the international compliance system

Matt Dias gave an overview of the ABSCH established under Article 14 of the NP. The ABSCH is a platform for exchanging information on ABS and a key tool for facilitating the implementation of the NP. It enhances legal certainty, transparency and clarity by allowing countries to share information on procedures for accessing GR and aTK. It contributes to ensure compliance with ABS measures and transparency in monitoring the utilisation of genetic resources along the value chain, including through the IRCC, checkpoints and checkpoint communiqués. To make this system work, Parties are thus



encouraged to provide and update the information required as per their obligations under the Protocol to the ABSCH. The SCBD also has a help desk for the ABSCH. Mr. Dias stated that most questions from “user countries” are national implementation questions on how to access GR (rather than technical questions regarding the mechanism itself).

The SCBD has identified several challenges related to publishing information in the ABSCH. These include: delays in the designation of the publishing authority, frequent changes in responsible authorities, the need for translation of the ABSCH, the need for capacity to use the ABSCH and technical difficulties. In order for the ABSCH to become more effective, the SCBD urges all governments to publish relevant information in the ABSCH, keep the information reliable and up-to-date and provide feedback and suggestions to improve the ABSCH. According to Article 14.2 Nagoya Protocol, the core mandatory information to be shared by Parties on the ABSCH is 1) ABS measures, 2) NFPs and CNAs and 3) permits and their equivalents. Confidential information should not be shared on the ABSCH. The most common complaint that the SCBD hears from users of GR and ATK is that the ABS procedures to access GR and ATK are not clear or easy to understand. To publish information on the ABSCH the ABS NFP needs to take on the responsibility of publishing authority or designate someone else.

The following discussion highlighted some key issues:

- There is a need to optimize the most used functionality of the website
- More than half of visitors are users of GR and ATK
- Translation is a priority, including of capacity building information
- There is a need to increase the national information available in the ABSCH
- There is a need for clear guidance how to apply for access to GR and ATK
- The help desk is used for technical support and answers to general implementation questions
- More awareness-raising and capacity-building is needed: for Parties to use the ABSCH, on the system for monitoring utilization of GR through the ABSCH, on interoperability with the ABSCH (for national clearing-houses and permitting systems), for relevant stakeholders, IPLCs, and relevant organizations.

Action Points of Day 5

- As countries carry on with their national implementation process, it is important that they publish ABS-related information on the ABSCH.

Wrap-up of the 11th Pan-African ABS Workshop

Hartmut Meyer from the ABS Initiative provided participants with a wrap-up.

Day 1 reminded participants of the bilateral default approach of the NP and showed its limitations. Alternative solutions were elaborated by participants during the workshop. Participants also gained insight into the results of the national interim reports. The discussions revealed that national reporting requires better coordination, in particular at national level. The national interim reports were



considered a very valuable awareness-raising tool for national institutions, but the reporting format is to be improved for a number of reasons. The SCBD invited African countries to propose amendments.

Day 2 showed how ABS is dealt with in various international processes (FAO, UNCLOS, WHO, WIPO, CBD). It became apparent that the African position is not unified and coordinated in these various fora. To support coordination, the ABS Initiative in collaboration with the AUC has developed an online communication system with a view to supporting exchange between African ABS actors and coordinating African biodiversity negotiations. The Initiative urges the African Group to better coordinate in international and national fora.

Day 3 looked at the most contentious issue that the CBD is currently facing, namely DSI. This matter touches upon highly technical and also political aspects and already proved to be challenging during the previous COP in Cancun in 2016. Participants were introduced into various aspects of DSI and saw that the process of DSI at the CBD is the slowest. The presentation by Chris Lyal from the UK Natural History Museum showed that DSI plays an increasing role in taxonomic research and major role in applied and commercial research. A multilateral approach may be a potential solution for DSI.

Day 4 focused on the need and modalities of a GMBSM on Article 10 of the NP. Article 10 does not cover the High Sea and ex situ situations but there are many issues which could be regulated through multilateral approaches. First discussions were held during this workshop, but strategic work remains to be done to support the arguments of the African Group at COP. Further focus was on the preparatory process for the post 2020 global biodiversity framework. The linkages of ABS with the SDGs and Agenda 2030 for Sustainable Development were presented. ABS is directly linked to two SDG targets and needs to be discussed in the large context of the universal goals. The African Group has to ABS issues to the overall strategic plan of the CBD. The CBD is the mother convention for all its protocols and this unity needs to be established and maintained. Furthermore, it is important to collect success stories of ABS cases that support the achievement of the SDGs. The ABS Initiative has started collecting examples and invites participants to share further ABS cases.

Day 5 addressed the international compliance system and the ABSCH mechanism. as innovative system that sets up a compliance system. Discussions highlighted the importance of the IRCC. Parties to the NP need to appoint a publishing authority and there needs to be clarity at the national level between ABS NFPs, CNAs and the publishing authority.

Closure

Boubacar Issa Abdourhamane (Permanent Representative of the OIF in Addis Ababa) conveyed greetings on behalf of the International Organisation of La Francophonie (OIF) and reiterated the determination of OIF to contribute to ABS and the implementation of the SDGs. He commended the participants and organizers for all their efforts and encouraged the integration of matters related to environment and climate at national level. Finally, Suhel al-Janabi thanked all participants for the fruitful discussions and wished them a safe journey home.





Annex

Results of group work during Day 1

Group 1		
Capacity	Coordination	Structure
<p>Challenges:</p> <ul style="list-style-type: none"> - Inadequate sensitization & awareness - Poor implementation of the capacity building framework - Low political will at national levels <p>Solutions:</p> <ul style="list-style-type: none"> - ABS NFPs should develop awareness creation strategies - Undertake resource mobilisation strategies and efficient utilization of resources - Develop technical capacity - Mainstream ABS within national development strategies 	<p>Challenges:</p> <ul style="list-style-type: none"> - Poor institutional coordination - Poor policy harmonisation amongst countries - Low political will at national levels - Poor synergies <p>Solutions:</p> <ul style="list-style-type: none"> - Engage AMCEN in building political momentum at the AU level - Implementation of the AU Guidelines 	<ul style="list-style-type: none"> - Enforceability - Clarity on the scope of the NP (digital sequences, TK, Global benefit-sharing mechanism)

Group 2		
Capacity	Coordination	Structure
<p>Challenges:</p> <ul style="list-style-type: none"> - Lack of clear laws - ABSCH not having adequate info - Lack of model contractual framework / inadequate capacity to negotiate contracts - Inadequate capacity in drafting legal agreements - Poor understanding of ABS <p>Solutions:</p> <ul style="list-style-type: none"> - In-country training - Training and skills development for compliance monitoring 	<p>Challenges:</p> <ul style="list-style-type: none"> - Poor institutional memory - Poor evaluation of opportunities - Lack of transboundary cooperation/mechanism - Lack of aligned checkpoints (CNAs) <p>Solutions:</p> <ul style="list-style-type: none"> - Create pool of experts - Create a framework for information sharing - Agree on benefit-sharing standards - Integrate ABS in checkpoint activities 	<p>Challenges:</p> <ul style="list-style-type: none"> - Constructive ambiguity on the NP - Unclear ownership of resource - Too many ways to bypass benefit-sharing exist <p>Solutions:</p> <ul style="list-style-type: none"> - Clarity on the scope in national legislation - Clarify in national law ownership rights - Default benefit-sharing mechanism(s)



Groupe 3		
Renforcement de capacité	Nécessité de coordination	Renforcement des structures
<ul style="list-style-type: none"> • Ressources humaines : Communautés locales, Tradipraticiens Chercheurs Politique/Elus Techniciens (gestionnaires, DPI, collectionneurs) Médias Privés et OSC Juristes Ministères concernés PF-APA • Finance : ○ Mobilisation des ressources financières • Matériel : Techniques / Technologie 	<ul style="list-style-type: none"> • National : ○ Cadre de concertation (comité national) avec PP ○ Comité ad 'hoc ; comité spécialisé ○ PF-APA ; ANC • Régional : Organisation sous régionale Réseautage des points focaux et des juristes • Continental : UA ; AMCEN Réseautage des points focaux et des juristes 	<ul style="list-style-type: none"> • Coopération bilatérale (fournisseurs – utilisateurs) • Coopération multilatérale (article 10)

Groupe 4		
Renforcement de capacité	Nécessité de coordination	Renforcement des structures
<ul style="list-style-type: none"> • Ressources humaines : PF ANC Parlementaires Gouvernement OSC Juristes • Institutionnel / Juridique : ○ Mise en place de l'ANC, des points de contrôle, CH-APA ○ Lois et autres textes ○ Mesures et procédures administratives • Systémique : Sensibilisations par types d'acteurs Mobilisation de financement pour démultiplier les formations Inventaire des ressources 	<ul style="list-style-type: none"> • Régionale / UA • Connexion avec les structures régionales ; exemple : CEAC / COMIFAC ; CEDEAO • Nationale / Comité National APA 	<ul style="list-style-type: none"> • Actuelle et les rendre opérationnelle

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