



Minutes of the Meeting of the African Steering Committee 2018

6-7 March 2018, ACP Secretariat, Brussels, Belgium

Participants

Members of the Steering Committee:

Boukar Attari, CNEDD, Niger
Nicolas Deflandre (on behalf of Philippe Mayaux),
EU DG Development Cooperation
Samuel Diemé, Direction des Parcs Nationaux,
Senegal
Nonhlanhla Halimana (via Skype on behalf of Peter
Huber), SECO
Lazarus Kairabeb, Nama Traditional Leaders
Association, Namibia (on behalf of Lucy
Mulenkei, IIN, Kenya)
Mouhamed Konate (on behalf of Arona Soumare),
OIF / IFDD
Matthias Krause, BMZ, Germany
Pierre du Plessis (via Skype), CRIAA-SADC
Kauna Schroder, Ministry of Environment and
Tourism, Namibia

Members excused:

Ahmed Birouk, Université Rabat, Morocco
Natalie Feltman, DEA, South Africa
Chouaibou Nchoutpouen, COMIFAC

Secretariat of the Initiative:

Suhel al-Janabi
Andreas Drews
Eva Fenster (minutes)
Hartmut Meyer
Nadine Pauly (logistics)

Observers:

Mahlet Kebede, African Union Commission
(AUC)
Barbara Lassen (via Skype), Natural Justice
Valérie Normand, SCBD
Olusola Ojo, ACP Secretariat
Maria Julia Oliva, Union for Ethical BioTrade
(UEBT)
Olivier Rukundo, legal consultant
Morten Walløe Tvedt, Fridtjof Nansen
Institute (FNI)

Welcome and Introduction

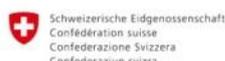
Matthias Krause (BMZ) welcomed everyone as the chair of the meeting. He thanked the ACP Secretariat for hosting the meeting and the ABS Initiative for the organization of this event. Apologies were conveyed on behalf of Ahmed Birouk, Natalie Feltman and Chouaibou Nchoutpouen who were not able to attend the meeting.

After a brief round of introduction, the meeting agenda was adopted.

Progress Report 2017

Andreas Drews, supported by other members and partners of the ABS Initiative, presented an overview of the Initiative's process, activities and achievements in Africa in 2017 (see presentation "ABS Initiative Progress Report" – for more details, see Progress Report 2017).

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Swiss Confederation

Federal Department of Economic Affairs,
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State Secretariat for Economic Affairs SECO

and implemented by



In the subsequent discussion, the following issues were raised:

- The Initiative should endeavor to focus on activities supporting the implementation of the NP and documenting lessons learnt in partner countries and provide opportunities for sharing these lessons with cooperation countries. Among others, the Initiative will develop a paper on “NP implementation options” with a view to help interested countries to put the process of elaborating national ABS measures on good track from the start, or at relevant junctures of the implementation process.
- More capacity-building activities are needed to address the **limited understanding concerning basic ABS processes** (PIC, MAT, etc.) among relevant ABS actors in partner / cooperation countries. A simply explained video on “monitoring and compliance”, to be launched at the meeting of the Subsidiary Body on Implementation (SBI), is expected to contribute to a better understanding of the compliance system under the Protocol.
- The currently available budget of the ABS Initiative is not sufficient to address the manifold support needs for NP implementation. More funds need to be raised in order for the Initiative to become reasonably active at national level.
- **Costs associated to steering and guiding** amounted to 21% in 2017. According to the Secretariat of the Initiative, the relatively high percentage of costs for steering and guiding in 2017 were to a large extent due to an increase in fundraising activities which were necessary to address the high demand for ABS support at national level. The projected steering and guiding costs in the 2018 work plan are significantly lower.

Following the discussions, the Progress Report 2017 was adopted.

Status of implementation of the Nagoya Protocol on ABS

Valérie Normand (SCBD) provided an overview of the status of **implementation of the Nagoya Protocol (NP) on ABS** based on information available on the ABS Clearing-House (ABSCH) and the Interim National Reports. The reports reveal that there is a continuing lack of capacity and awareness at national level and coordination among different institutions is a core challenge. Ms Normand also gave participants a brief update on SCBD developments regarding NP implementation, highlighting that the assessment and review of the NP is a key process that will inform future capacity-building activities. She further indicated that a workshop on monitoring the utilization of GR for ABS National Focal Points will be held on 8 July 2018 in between the SBSTTA and SBI meetings in order to respond to the need to create a better understanding of monitoring and compliance under the NP.

Alicja Kozłowska (DG Environment, EC) presented the status of **implementation of the NP in the EU**, referring among others to the EU ABS regulation, the commission implementing regulation and complementary measures. With respect to challenges of implementation, Ms Kozłowska pointed to the continuous need for awareness-raising on ABS legal frameworks, the need to better integrate ABS into companies’ policies and ongoing work on defining the boundaries of scope of application. She stated that the Initiative has undertaken tremendous work in assisting countries in ratification and implementation processes, but significant work at national level is still needed to attain a globally functioning Protocol.

Focusing on ACP countries, Hartmut Meyer provided participants with an **explorative analysis of the 2018 Interim National Reports on the Nagoya Protocol** which are published by the Secretariat of the CBD on the ABS Clearing-House. The objective of this analysis was to obtain an overview of the achievements and challenges of the 84 ACP countries of the ABS Initiative regarding the implementation of the NP, to interpret the results of the national reports based on practical experiences of the Initiative and to identify needs and priorities for future capacity development

activities. Among others, the assessment revealed that the compliance mechanism of the NP is not very well understood by many ABS actors. In addition to that, many countries face difficulties in working with the ABSCH. Overall, the presentation highlighted **many mismatches between given answers and explanatory texts**, which is an indication that many NP topics are being misunderstood, in particular regarding compliance, checkpoints and special considerations. The SC was informed that only 22% of the positive answers provided are backed with a specific document on the ABSCH. One steering committee member said, that some positive answers on the existence of NP features were rather given with a political rationale – e.g. in order not to state that there are no legal PIC requirements.

In order to react to these challenges, the Initiative proposed several topics for intensified capacity development, such as the development of ABS legal frameworks (incl. implementing regulations), the nomination of publishing authorities for the ABS Clearing-House and further IPLC involvement. For more details, see presentation “Explorative Analysis of the 2018 National Reports”. Before concluding his presentation, Mr Meyer thanked Lena Fey and Peter Schauerte from the Initiative for their work in assessing the reports.

SECO co-funded sub-project “ABS Compliant Biotrade in South(ern) Africa”

On behalf of Peter Huber from the Swiss State Secretariat for Economic Affairs (SECO), Nonhlanhla Halimana briefly reported on the work undertaken by SECO in the field of biodiversity and biotrade related projects. SECO is contributing through earmarked funding to the **“ABS Compliant Biotrade in South(ern) Africa” project** which will be implemented and managed by the ABS Initiative.

Ms Halimana highlighted that SECO considers GIZ an ideal implementation partner in the project.

Following this, Suhel al-Janabi provided participants with an overview of the project which has the overall objective of attaining an innovative biotrade sector in South and southern Africa which is compliant with national ABS regulations and supports sustainable development goals and the sustainable use of South(ern) Africa’s plant biodiversity.

The project constitutes an integral part of the ABS Initiative by contributing directly and indirectly to the objectives of the ABS Initiative as well as providing biotrade sector-specific lessons learned which can be up-scaled to other countries. For further information on the project, see presentation “The ABS Compliant Biotrade in South(ern) Africa Project”.

The discussion that followed, clarified that certain ABS-relevant fields in South Africa will continue to be supported under the ABS Initiative’s core budget as they are not covered under the SECO project. Barbara Lassen indicated that Natural Justice (NJ) would be interested in providing input to the SECO project regarding several of the value chains presented. The Secretariat highlighted that the project will provide excellent learning opportunities for other countries, in particular with respect to transboundary cooperation. Further, market analyses on specific resources (e.g. baobab, marula) may be undertaken and shared with other countries. The project is to be presented to a broader African stakeholder community at the envisaged 12th Pan-African ABS Workshop in South Africa in 2019.

The Steering committee as a whole welcomed the sub-project as a valuable complementing component to the ABS Initiative. Several SC members said that its actor and value chain focused support approach could provide direction to future orientation of the entire ABS Initiative.

ABS Initiative partner countries: Proposed changes

In 2014, 11 partner countries were identified by the ABS Initiative and presented to the SC for adoption. In supporting these partner countries, the Initiative depends on counterparts that play an

active role in the planning and implementation of joint activities in order to fulfill the project objectives.

Since no progress has been achieved with respect to ABS implementation in Uganda over the past 2.5 years, the Secretariat of the Initiative presented the following suggestion to the SC for decision:

- Uganda continues to receive support as a cooperation country, i.e. support will be made available upon request by stakeholders on a case-by-case basis and within the budgetary limits of the flexible country budget. Future SC meetings may reconsider this decision if clear political will to work on ABS issues has been demonstrated.
- **Malawi will receive support from the ABS Initiative as a partner country.** A country assessment will be conducted during the 2nd quarter 2018, resulting in a road map and selected priority activities taking into account the budgetary limitations of the ABS Initiative.

Hartmut Meyer subsequently provided participants with an overview of the work undertaken by the Initiative to support Uganda in ABS implementation and activities undertaken by Malawi in ABS implementation. Malawi ranking 17th in the 2014 list of potential partner countries demonstrated in the least years high political will and commitment to work on ABS issues. The relevant authorities are highly motivated, demonstrate the ability to conduct ABS activities independently and have been seeking advice from the ABS Initiative since 2016. For background information, see document “Changing Partner Countries”.

Several SC members voiced their concern regarding the Secretariat’s proposal. Among others, it was argued that there already is a strong focus on the SADC region regarding ABS capacity development activities carried out by the Initiative. Some African SC members asked the Secretariat for an opportunity to consult bilaterally with the relevant authorities in Uganda before taking any decision.

Overall, the proposed changes of partner countries sparked a debate among participants regarding the **ongoing need for regional balance** with respect to ABS capacity development activities in Africa and **the sharing of experiences**. In response to this, the Secretariat pointed out that many African countries nowadays not only receive support for ABS implementation from the ABS Initiative but also through e.g. GEF projects or German bilateral cooperation projects. Therefore, the availability of support through other projects is to be taken into account in the partner country selection process with a view to working towards a landscape of equal and coordinated support in Africa.

Following a bilateral consultation among African SC members and authorities in Uganda, the Secretariat was informed that Ugandan authorities – while acknowledging that meetings with the Initiative had been held – did not engage in a close collaboration with the Initiative because the partnership was not formalized (e.g. through a Letter of Intent). The Secretariat informed the SC that a draft Memorandum of Understanding had been elaborated in 2016, but the Initiative did not receive any feedback from Uganda with respect to the way forward.

After deliberations in the SC, the following was agreed:

For the time being Uganda shall remain partner country of the ABS Initiative. The Initiative is to ask the relevant authorities in Uganda (NFP/CNA/Director of NEMA) in writing to confirm whether they are ready and willing to engage with the ABS Initiative as a partner country. If Uganda confirms its interest, a work plan is to be concluded with the Initiative within a set timeframe.

If the Ugandan authorities do not respond within two weeks after receiving the letter, the Secretariat will present a written decision to the SC suggesting an alternative partner country, clearly outlining the selection criteria on which the Secretariat based its decision. In case an alternative partner country is to be selected, the 2014 list of partner countries that have a good potential for ABS implementation shall be consulted.

Work plan and indicative budget 04/2018 to 03/2019

An overview of the work plan including indicative budget allocations for the timeframe 04/2018-03/2019 was presented by Andreas Drews (see Work Plan 04/2018-03/2019 for Africa for further details).

The subsequent discussion clarified that:

- Given the budgetary constraints of the Initiative, the Initiative will focus on conducting ABS contract trainings at the national (not the regional) level in 2018.
- Unless the Initiative receives specific requests from countries with respect to the development of publications / studies relevant to NP implementation, significant work under budget line 2.3. "Knowledge Management and Transfer" will concern the analysis of the National Interim Reports.
- Regional balance needs to be maintained with respect to capacity building activities of the Initiative. There may be room for improvement with respect to the West African region.
- Funding the participation of African delegates in international meetings is not a core activity of the ABS Initiative. However, the participation of African delegates in international meetings is foreseen in selected cases (e.g. UEBS BSR Conference, ABS dialogue fora).
- Experiences at the national level should be shared and made available to cooperation countries. For confidentiality reasons and internal governmental procedures however, it is often not possible to share information on draft ABS legislation/regulations. Informal meetings around workshops (e.g. Pan-African ABS Workshops) nevertheless provide opportunities for countries to share relevant information outside a formal level.
- The Initiative and the SCBD shall further encourage countries to make relevant information available on the ABSCH. The SCBD offered to be available for support in this area.
- The conclusions of the Interim National Reports assessment were taken into account when elaborating the Work Plan and they will guide the future work on capacity building. A two-step approach was proposed by the Secretariat: (1) a synthesis from the Interim National Reports is to be made available before SBI which aims at considering the assessment and review of effectiveness of NP; (2) an in-depth discussion is to be held at the next Pan-African ABS workshop with the view to identifying a new focus regarding capacity building activities.
- The bilateral German-Moroccan GIZ project was successfully concluded in December 2016. The follow-up project no longer contains an ABS component; therefore, the status of Morocco will change from partner to cooperation country.

The members of the SC approved the work plan and budget subject to the following amendments:

- *Uganda will remain a partner country of the ABS Initiative for the time being. As of now, Malawi will not receive support from the ABS Initiative as a partner country, but will continue to receive support as a cooperation country upon request.*
- *The SC notes with appreciation that there was a reduction of costs for steering and management in the current budget line in comparison to last year's budget line.*

The Secretariat will revise the work plan accordingly and circulate it among the SC members via email. The SC is to adopt the amended version via silence procedure.

African (Group) preparations for COP-MOP 3

This session aimed to give participants insight into the African group preparations for MOP 3.

Mahlet Kebede (AUC) informed the SC that Egypt will host a high-level meeting for Ministers in charge of biodiversity on 6 November 2018. The event will inter alia focus on ecosystem restoration as a means to address climate change.

The AUC has received requests from UNEP and African Wildlife Foundation (AWF) to support the coordination of the African Group in the ABS relevant processes under the CBD. Further information will be available by end of March 2018. The AUC also received an offer from the South African government to host the Africa Regional Preparatory Meeting for COP 3. Venue and ground transportation are to be provisioned by the South African government provided the AUC bears the remaining meeting-related costs.

Ms Kebede highlighted that the AUC is willing to provide leadership in the coordination and preparatory process of the African Group, while emphasizing the need for support from the Initiative. She stated that there are critical issues for the African region which need to be addressed (e.g. the issue of digital sequence information) on which the AUC wants to work closely with the Initiative. An online tool for more efficient communication and coordination between the African NFPs / negotiators in preparation for the various meetings of the NP is to be developed at the level of the AUC in collaboration with the Initiative. Ms Kebede also informed the Secretariat that the second Continental Coordination Committee meeting of the AU will be held in April 2018.

Following the clarification of the role of the AUC by Ms Kebede, Mr al-Janabi informed the SC that the Initiative proposes replacing the two-sub regional workshops envisaged for 2018 by one pan-African meeting in order to give African stakeholders an opportunity to develop a joint strategy for COP 14 / MOP 3 with their peers across the continent. The workshop would also place a focus on the CBD and NP-related processes, including an African review of the interim national reports on the implementation of the Protocol. He highlighted that this approach corresponds to the feedback received after the two sub-regional workshops held in 2016, where Francophone and Anglophone participants expressed their wish to be able to discuss and strategize in one group. He also indicated that the Initiative is planning to support a physical coordination meeting of African negotiators prior to the conference at the COP 14 venue in Egypt.

In the ensuing discussion, the following recommendations were made:

- The online communication system, a key tool for coordination of the African Group, is to be worked on and implemented. The system will be piloted in approx. 2 months (May 2018).
- The Secretariat proposes that the South African offer to host a Pan-African Workshop should be rolled over from May 2018 to March 2019 supporting the envisaged 12th Pan-African ABS Workshop, then taking stock of COP 14 / MOP 3 outcomes and providing a regional coordination platform for the African post-2020 CBD orientations (strategic plan). Although the budget for the 12th Pan-African Workshop is not yet secured, the Secretariat is confident that necessary funds can be raised.
- The ABS Initiative will organize an extraordinary (11th) Pan-African Workshop – instead of two sub-regional WS, justification see above – in close collaboration with the AUC in the first week of October 2018.
- This would allow for sufficient preparation time and recommendations from the meetings on the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA, 02-07 July 2018) and SBI (09-13 July 2018) could be taken into account.
- Since the SBSTTA and SBI meetings will consider several ABS-related issues, such as the outcomes from the Ad Hoc Technical Expert Group on DSI, the African Group is to coordinate via the available online tools prior to the meetings.

- The African group needs to position itself with respect to the use of DSI on genetic resources. In this context, the SC proposed including the topic of DSI as a key element in the 11th Pan-African Workshop, which will be held in Addis Ababa in October 2018.

Update on the ABS Initiative outcome indicators

This session addressed the question whether an **update on the outcome indicators of the ABS Initiative** is needed. Three of the five outcome indicators relate to the activities of the Initiative at country level, two of them relate to the assessment of the work of Secretariat by a) the Steering Committee and b) by the various stakeholders.

Hartmut Meyer presented the results of a questionnaire sent to workshop participants and SC members with a view to receiving information on the **progress of outcome indicator 4¹ and 5²**. The results of the questionnaire concerning outcome indicator 4 revealed that the **work of the Initiative is generally regarded as very useful and is to a large extent used by stakeholders**. Outcome indicator 5 was also fulfilled according to the feedback received. However, the **response rate by SC members was very low** which prompted the Secretariat to ask the SC for a higher participation rate in the coming years. For further details, see presentation “Update on Outcome Indicators”.

In the following discussion, it was clarified that the Initiative is continuously adapting its work based on formalized and non-formalized feedback received from stakeholders. Further, it was recommended that the Initiative develops a standardized feedback mechanism that includes a “grading system” as well as an open space for comments. The Secretariat announced that it plans to adapt its evaluation methodology for on-the-spot-evaluation and periodic assessments in the coming year.

The SC also discussed **adaption needs for indicators 1 to 3**. A discussion paper was circulated in advance to the SC members (see “Modifying Outcome Indicators 1-3”). When writing the Progress Report 2017, the Secretariat concluded that the outcome indicators 1 to 3 as agreed upon in the project document and specified by the SC meeting in 2016 require modifications to reflect that:

- In the Caribbean and the Pacific, a differentiation between partner and cooperation countries is not useful due to the limited budgets available for both regions. Support is instead provided rather at the (sub-)regional level or on demand at national level – similar to the flexible country budget provided for in the context of the support to Africa.
- Successful support provided and relevant ABS achievements in Africa under the flexible budget to cooperation countries (e.g. in 2017 to Ethiopia and Malawi) will not contribute to the ABS Initiative outcome indicators. In *sensu stricto* the ABS Initiative should not invest in such support – or alternatively, modify the indicators accordingly.

The suggestion presented to the SC for decision was:

- **Outcome indicator 1 will not be rephrased** and thus remains its focus on the **4 partner countries** because only here the Initiative works at a level intense enough to claim success in contributing to draft documents for the legal framework.
- **Outcome indicators 2 and 3 will be rephrased in “In partner and cooperation countries...”** to reflect that the Initiative is able to contribute to the establishment of individual ABS agreements with rather limited means also in cooperation countries.

¹ Stakeholders in partner and cooperation countries as well as regional and international organisations rate their satisfaction level with and the usefulness of the outputs of the ABS Initiative on a scale from 1 to 6 with 4 or higher.

² The Steering Committee of the ABS Initiative rates its satisfaction level in regard to the contributions of the Secretariat of the Initiative for steering the Initiative on a scale from 1 to 6 with 4 or higher.

The SC discussed the proposal and agreed that the work of the Initiative in its cooperation countries shall be reflected in the measurement of the indicators given that numerous cooperation countries have received targeted support by the Initiative (e.g. Ethiopia, Malawi). It was also decided that outcome indicator 1 will not be rephrased according to the reason stated above.

An important issue that came up during the discussion on the outcome indicators was the **question of attributability** with respect to measuring the impact of the Initiative's work. As of now, outcome indicators 2 and 3 count the number of ABS agreements in the four (non GIZ supported) partner countries which can be attributed to the support for capacity development provided by the Initiative and its partners to the various stakeholders. The attributability is however not easily determined because the support by the Initiative may range from low-level (e.g. providing advice on a contract clause to a workshop participant) to high-level support with respect to ABS contracts. The "attribution gap" will become even more prominent once outcome indicators 2 and 3 are reworded to include cooperation countries where the Initiative is involved with fewer resources in comparison to partner countries, making it more difficult to attribute e.g. the development of ABS agreements to the Initiative's activities. Here a *four-eye acknowledgment*, i.e. confirmation from the provider as well as from the ABS Initiative's advisor, that the support was indispensable to the successful establishment of the agreement, may serve as sufficient evidence for attribution.

Based on the proposal of the Secretariat, the SC agreed on the following working definitions:

*Outcome indicator 2: In 4 partner countries **and at least X cooperation countries** of the ABS Initiative 10 + Y new ABS agreements have been established.*

*Outcome indicator 3: In 4 partner countries **and at least X cooperation countries** of the ABS Initiative 7 + Y ABS agreements are based on Biocultural Community Protocols (BCPs) or comparable instruments (CI) and promote the inclusion and participation of women in benefit-sharing.*

There was consensus that the Secretariat is to quantify outcome indicators 2 and 3 with a target figure ("X cooperation countries") before November 2018 and present the proposal to SC members at a special meeting during COP / MOP 3. It was also agreed that the question of attributability with respect to the indicators needs to be further discussed with the extended team members of the Initiative and the SC.

Any other Business

Contributions of ABS / the Nagoya Protocol to attaining the Agenda 2030 and the SDGs: ABS, in particular from a user perspective, is often viewed as a legal or compliance issue rather than an instrument to promote sustainable development. With a view to reposition ABS to an instrument supporting the implementation of overall development objectives and the SDGs, the Initiative will in collaboration with strategic partners identify and compile ABS elements from collaborative research and business cases on genetic resources that have contributed meaningfully to attaining one or several of the SDGs.

Based on the Initiative's publication "*How ABS and the Nagoya Protocol contribute to the Sustainable Development Agenda*" (2016), the ABS Initiative will – responding to the request of the steering committee – develop a concept note outlining the intended process and product. In addition, in bilateral discussion with BMZ, but also other SC members the opportunity for agenda setting and presentation at the High Level Political Forum on the SDGs shall be considered, e.g. the organization of a side event addressing the linkages of ABS and the SDGs. Further, the AUC offered to be available for joint policy and outreach activities on the ABS-SDG linkages in the context of its collaboration agreement with the ABS Initiative.

Templates for ABS contracts: Based on repeated requests from countries to supply them with ABS contract templates, the ABS Initiative engaged in a discussion with its legal advisors who were reluctant to develop an ABS contract template for two main reasons: (1) a template will be used in situations where it is not adequate to be used in; (2) a template needs to be adapted to specific situations, but it bears the risk of being “copied and pasted”.

However, the Fridtjof-Nansen-Institute (FNI) is currently in the process of developing a study in the context of an IUCN GEF project for the Caribbean, which will provide clauses for ABS contracts that can be used and adapted to specific cases (with expert advice). The study aims to ensure that key issues that often arise in the context of ABS contracts are flagged and explained.

Morten Tvedt indicated that the study deriving from the project in the Caribbean will be available around Easter 2018.

Closure

Matthias Krause thanked the SC members and observers for the fruitful discussions and the ACP Secretariat for hosting this meeting. He further expressed his thanks to the ABS Initiative and the interpreters and wished participants a safe journey home.