



**SPREP**  
Secretariat of the Pacific Regional  
Environment Programme

**TRAINING**  
on „ABS and Intellectual Property Rights“ for  
National ABS Focal Points

hosted by  
**SPREP**

**Nadi, Fiji, August 12 – 16h, 2013**

**R E P O R T**

This report is part of the ABS Initiative's efforts to build the capacities of relevant stakeholders in developing and implementing national ABS regulations, and to raise awareness of Access and Benefit Sharing (ABS) as an important tool to protecting biodiversity and bringing forward sustainable development.

The ABS Capacity Development Initiative regularly organizes workshops and trainings on Access and Benefit Sharing in Africa, the Pacific and the Caribbean. The events cover a wide range of topics related to ABS: Intellectual Property Rights, Biocultural Community Protocols, traditional knowledge, negotiation skills, forests, protected areas, the private sector, communications and education, and certification.

All reports and presentations are posted on the Initiative's website: [www.abs-initiative.info](http://www.abs-initiative.info)

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## Background

With the adoption of the Nagoya Protocol on “Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising out from their Utilization” many countries are likely to develop new Access and Benefit Sharing (ABS) frameworks or revise existing frameworks in the near future. In most countries these frameworks will not stand in isolation but are intimately connected to other regulatory frameworks, both on a national as well as international level.

One of these frameworks is the system for the protection of intellectual property rights (IPRs). IPRs are relevant to ABS because most research and development based on genetic resources and/or traditional knowledge will eventually be subject to intellectual property protection, mostly through patents. Once a patent is granted any claim contained in the patent will be of exclusive commercial use by the holder of the patent for a period of 20 years. In the past this has led to repeated cases of misappropriation of genetic resources and/or associated traditional knowledge. At the same time certain IPRs have also been discussed as possible tools for indigenous and local communities or other interested parties in biodiverse rich countries to protect traditional knowledge or genetic resources against such misappropriation and/or for their own economic aspirations.

This training aims to provide a more in depth understanding of the linkages between IPRs and ABS.

The training is part of the ABS Capacity Development Initiative’s work plan for 2012/2013. Information about the ABS Initiative and full documentation of previous workshops and events are provided on <http://www.abs-initiative.info/>.

## Objectives and target group

The objective of this training is to

- brief participants on the links between ABS and IPRs and their significance for NFPs,
- explain how the IPRs system is linked to ABS, both substantively and institutionally,
- provide a basic understanding of relevant IPRs such as patents and geographical indications,
- explain alternative TK protection models (also referred to as sui generis systems), and
- provide a platform for dialogue where NFPs can discuss and share concrete practical experience on the interface between IPRs and ABS and discuss possible regional approaches
- to cope more effectively with these issues.

### Expected Outputs

- Awareness on the overall interface between ABS and IPRs with specific relevance for NFPs.
- Increased understanding of specific IPRs of particular relevance to ABS, such as patents and geographical indications and the opportunities and challenges they pose for the protection of genetic resources and/or associated traditional knowledge.
  - Basic understanding of the institutional landscape of intellectual property policy-making and possible avenues of NFPs engagement into relevant national, regional and international fora.
  - Exchange of experience on a regional level with the aim to identify and develop solutions to transboundary challenges regarding these issues.

## Target group

Representatives of national and regional authorities responsible for the implementation of the Convention on Biological Diversity and the Access and Benefit-sharing regime from Small Island Developing States in the Pacific region.

## Process

### Monday, August 12, 2013

#### Session 1: Introduction to Intellectual Property Rights – Why do they matter in the context of Access and Benefit Sharing?

This first session of the training provided a general overview on the main concepts and rationales associated to the protection of Intellectual Property Rights (IPRs). The session also focused on showing to participants why IPRs are important for ABS Focal Points and other ABS policy makers and what policy issues they should bear in mind in relation to geographical indications (GRs) and associated traditional knowledge (ATK) when national IPR policy is being designed. The session described some examples of how different forms of IPRs affect countries within the broader field of ABS to provide the basis for later, more detailed presentations during the course of the workshop.

Afterwards, the floor was opened up for a discussion where participants could share examples of how they have been affected by IPRs and provided short narratives of national examples.

Most participants showed very little knowledge of both IPRs and ABS, and even less knowledge of the interfaces between them. Most Pacific countries do not have IP offices, and have not developed any national IPR policy or law, even though most of them are members of WTO, and are obliged by the TRIPs Agreement to do so. On the other hand, all countries are members of the CBD, but still do not have ABS laws.

Some participants showed interest in having technical assistance to develop their national ABS laws, since the training showed very clearly that the level of applicability of international instruments such as CBD and the Nagoya Protocol is very low for countries that do not have national ABS laws. Some countries asked for support on the national level to develop national policy and legislation, others requested more national trainings.

#### Session 2 Part 1: Introduction to Patent Law

The session explained the elements in patent law that are relevant for ABS. Various assessments in the patent system interlink to the rights to genetic resources and traditional knowledge. The objective was not to give a full course in patent law, but rather to make the participant knowledgeable about the patent as being relevant for their work on ABS.

Particular attention was given to the relationship between ABS-contracts and the patent system and to show how participants can use the patent system as a means to augment the value of the utilisation of GR and TK in a manner increasing the benefits that can be shared. The session led participants step by step through the patent system, starting with the application stage..

The presentation was interactive, based on power point slides, meaning that the floor is open for questions and answers along the presentation.

Patent law has not that direct relevance for most of the Pacific countries as they do not have a patent system. However there was a large interest in the topic explored and a lot of discussion. The interlinkage between ABS contracts and patents was at the core of the discussion. The knowledge of patent law was very limited. This improved significantly. The attention of patent and intellectual property clauses in ABS-contracts increased substantially.

#### **Session 4 – Policy Institutions: WTO, TRIPS/CBD discussions and negotiations**

This session examined some of the basic principles of the TRIPS Agreement including its consideration as a minimum standard agreement, the national treatment principle and the most favourable nation clause. The session explained the context of current WTO Doha discussions and negotiations on the so-called outstanding implementation issues and the review of Article 27.3b) under paragraph 12 and 19 of the Doha Declaration respectively. The focus of the discussion was the relationship between the TRIPS Agreement and the CBD and ways options to avoid the granting of patents that do not fulfil with CBD obligations. The session analysed main positions on the matter including: a) no conflict and no need to change anything, b) no conflict but a need to an amendment to the TRIPS Agreement to include a disclosure of origin/source mechanism; and c) conflict and the need to prohibit patents on life forms. The presentation indicated that linkages have been built between proposals on the introduction of biodiversity related disclosure requirements, a multilateral register for wines and spirits and the extension of the higher level of GI protection to other products different than wines and spirits (proposal W52). Main opponents to this coalition (US, Japan, Australia and Canada) consider that the best solutions would be to create a database on GRs and TK to improve prior art searches and one database on notification on GIs with no legal effects. These solutions are considered insufficient by most developing countries, the EU and Switzerland. There is not yet a clear solution to these issues in the TRIPS Council.

**Tuesday, August 13, 2013**

#### **Session 2 Part 2: Introduction to Geographical Indications**

The session provided a general overview of what Geographical Indications (GIs) are, what are the main purposes of protecting GIs, how GIs are related to sustainable local

development, cultural identity and heritage, and how GIs can be used as tools to help ensure quality and identity of products. The session also presented the historical background of GIs, both in Europe and internationally, and then it focussed on how GIs are regulated by the Trade Related Intellectual Property Rights Agreement of WTO (TRIPs), the additional protection of GIs for wines and spirits, and the possible extension of the higher level of protection to other agrifood products. It also analysed the differences between GIs and trademarks. Finally, the session presented some cases of GIs registered in Asian and Pacific countries, such as the Kona coffee (Hawaii), Ceylon tea (Sri Lanka), Sarawak pepper (Malaysia) and Bali (Indonesia) coffee, known as Kintamani Bali Kopi Arabika.

The trainer discussed with participants how (and if) GIs could be useful legal tools to promote local/traditional products of Pacific countries, contributing to their sustainable development.

In a group work participants were divided answered the following questions: Can you think of least 2 products, in your country of origin, which could potentially benefit from the registry as a GI? Which products? What are their main characteristics? How are these products related to traditional knowledge, cultural identity and biodiversity? Why do you think GIs could help to promote such products? In which ways?

Most participants showed a vivid interest in GIs and were eager to discuss examples of local products in their countries that could benefit from GI protection. Even though Pacific countries do not have national GIs protection systems, most participants were familiar with some famous GI products from other countries, such as Champagne, Cognac, Parma Ham etc, but did not know the concept of GIs and the rationale behind them. Therefore, most participants were very motivated to participate of the debates on GIs and seemed happy to gain knowledge on this legal and economic instrument, until then largely unknown by most of them. Some of the participants also expressed interested in identifying which local products in their countries could benefit from GI protection, and this is also a field of technical cooperation to be considered.

### Session 3: Protection of Traditional Knowledge

This session provided participants with an overview of the main international instruments that can be used to protect TK. CBD, art. 8(j), the Nagoya Protocol main provisions on TK, the UNESCO Convention on the Safeguarding of Intangible Cultural Heritage, the ILO Convention 169 concerning Indigenous and Tribal Peoples, the UN Declaration on the Rights of Indigenous Peoples, and the ITPGRFA provisions on farmers rights were discussed with participants. The advantages and short-comings of traditional forms of IPRs for the protection of TK were also discussed with participants. The key characteristics of TK (evolving, collective, oral, not time bound etc.) were analysed in relation to the nature of most forms of IPRs (in particular patents).

The session also explored *sui generis* systems of protection, such as data bases and stand-alone models, as well as community protocols in the context of ABS.



Finally, the session discussed a wide variety of national models of TK protection (India, China, Peru, Panama, the Swakopmund Protocol on the Protection of Traditional Knowledge and Folklore, Andean decisions, the Pacific Model Law etc)

The session on TK continued with a presentation of a table on key *sui generis* options to protect TK. The table shows main approaches taken so far at the national level and which are the main contents and differences between these laws. See table I below:

Approach	Content	Examples
<b>Holistic</b>	<b>Human rights Customary law Land rights Self determination</b>	<ul style="list-style-type: none"> <li>▪ Constitutions of Ecuador and Bolivia</li> <li>▪ Customary law protocols</li> <li>▪ Indigenous codes (e.g. Philippines)</li> </ul>
<b>Options derived from ABS regimes</b>	<b>PIC/ Benefit sharing Conservation measures Bilateral contracts or annexes</b>	<ul style="list-style-type: none"> <li>▪ Biodiversity Law of Costa Rica</li> <li>▪ Andean decision 391 (indigenous plus Afro-American community)</li> </ul>
<b>IP derived Options</b>	<b>Some modification of existing IPRs or civil/common law regimes</b>	<ul style="list-style-type: none"> <li>▪ The Andean PI decision 486</li> <li>▪ Compensatory liability regimes</li> <li>▪ Adaptation of copyright law</li> </ul>
<b>Eclectic</b>	<b>IP, ABS and customary law principles</b>	<ul style="list-style-type: none"> <li>▪ Swakopmund Protocol</li> </ul>
<b>Sectorial options</b>	<b>Tripartite systems: Agriculture, health, folklore</b>	<ul style="list-style-type: none"> <li>▪ Pacific Island Model Law</li> <li>▪ TK law of Panama</li> <li>▪ China patents on traditional medicine</li> <li>▪ Plant variety law of Thailand</li> </ul>
<b>Register rights options</b>	<b>Defensive (prior art plus confidentiality) Positive (ABS, Trade secret, plus compensatory liability)</b>	<ul style="list-style-type: none"> <li>▪ TKDL</li> <li>▪ Peruvian Law on indigenous knowledge (public domain)</li> </ul>

Source: Vivas 2013.

Most participants were very interested in learning about ways of providing legal protection to TK, and they made several narratives of TK misappropriation and misuse in their countries. However, none of the Pacific countries have legal systems to protect TK. Some participants showed interest in receiving technical assistance to develop national legal instruments aimed at protecting TK, due to the understanding that international instruments are important, but not sufficient. Considering the richness and diversity of TK and traditional cultural expressions existent in Pacific countries, developing national legal systems for the protection of TK could be a priority for future capacity building and trainings in the region.

#### Session 4 – Policy Institutions: Nagoya Protocol

Film 1: ABS – Briefly explains

Film 2: People, Plants and Profits

## Panel Session: “Hot chair” on Nagoya Protocol

The trainers formed a “A panel of experts” and responded and interacted with participants on key concerns, questions and needs for clarification of the Nagoya Protocol rules. Questions were posed on scope, regional cooperation, institutional capacity to implement the agreement and transfer of technology. Clarifications were made the need to have national ABS systems to implement the Protocol, the differences between access vs. benefit sharing obligations under the protocol and the similarities and differences between transfer of technology clauses of the CBD and those of Nagoya.

## Session 4: FAO, ITPGRFA and Farmers’ Rights

The session described the International Treaty on Plant Genetic Resources for Food and Agriculture, its provisions on conservation and sustainable use of plant genetic resources for food and agriculture and its multilateral ABS system, as well as the main differences between the bilateral ABS system of CBD and NP and the multilateral ABS system established by the ITPGRFA for Annex I crops. The article (9) on farmers rights was also presented, as well as the options for national implementation. The interfaces between farmers rights and the ITPGRFAs provisions on management of PGRFA on farm, with the participation of farmers, and within the context of local agroecosystems, were also discussed. The session also discussed how to promote mutual supportiveness in the implementation of the ITPGRFA and the Nagoya Protocol/CBD at the national level.

Considering that several Pacific countries are members of both CBD and the ITPGRFA, it is important that future trainings include a session on how to promote mutual supportiveness in the implementation of these two instruments.

## Wednesday, August 14, 2013

### Session 4 – Policy Institutions: Commission on Genetic Resources for Food and Agriculture (CGRFA)

The topic for this session is to look into the negotiations going on in the CGRFA on other groups of GRFA than plants. The aim was to explore the need for differentiated ABS systems for different groups of GR. We explored in particular micro-organisms, animals and aquatic GR. These groups are particularly relevant for the Pacific countries. The links between the the ITPGRFA and the CGRFA with the general rules under the CBD and NP were highlighted.

The participants had limited knowledge about the CGRFA process. The presentation put this crucial topic on their attention. The one core lesson was the need for conducting preparatory meetings before their colleagues go to any relevant meeting on genetic resources for food and agriculture. Government officials responsible for agriculture often have a different perspective on these issues than their colleagues from the environment and those responsible for trade and IPR often take another stand. There is a huge potential for internal collaboration amongst government offices. The training helped to much better understand the links between the different institutions.

## Session 2 Part 3: Plant Varieties and Plant Breeders' Rights

This session introduced Intellectual Property Rights over Plant Varieties (the so-called plant breeders rights or plant variety protection). It also described the main concepts of the UPOV Convention, the differences between UPOV Acts of 1978 and 1991, as well as the notions of breeders exemption and farmers rights. It showed the distinctions between the patent system and the *sui generis* system created by UPOV. Then, the floor was opened for discussions of whether it is in the interest of Pacific countries to become members of UPOV, of which UPOV Acts, and the option to develop their own *sui generis* system, that was followed by some Asian countries (India, Nepal and Bangladesh).

Most participants had very little knowledge about plant breeders rights, and most Pacific countries do not have agriculture as a main economic activity. However, participants showed a lot of interest in being informed about the UPOV *sui generis* system, as an alternative to IP protection to plant varieties by patents. The case of Taro, and the development of a new variety of Taro, resistant to a leaf blight, through a cooperative plant breeding program, developed by different Pacific countries, was discussed. Farmers' rights, and the different ways of implementing them at the national level, also gave rise to a lot of debate. Most of the debates were centered around farmers rights to save and re-use their varieties, as well as to produce their own seeds, and how these rights are often in conflict with plant breeders rights and seed laws.

## Session 4 – Policy Institutions: World Intellectual Property Right Organisation (WIPO)

This session focused on one WIPO treaty and one WIPO negotiations. The presenter explained the role and function of the Patent Cooperation Treaty (PCT) as well as negotiations in WIPO's Intergovernmental Committee on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions (WIPO IGC).

The session explained the international filing process of the PCT, its advantage and main process outcomes such as the International Search Report (ISR) and the Patent Preliminary Examination Report (IPE). These documents can contribute to the substantive patent examination by national offices. It was clarified that the PCT does not grant global patents but only seeks to facilitate filing in multiple jurisdiction and preliminary examination patentability processes.

WIPO's IGC process has lasted for more than 13 years. Outcomes so far have been modest and they include a forum for discussions, the inclusion of TK sources in minimum prior art literature, several studies and a list of objectives, principles and draft provisions for GR, TK and TCE protection. The presenter introduced main aspects of IGC mandate and draft texts. Particular aspects of draft texts were explained with detailed including: objectives, principles, subject mater, beneficiaries, rights, exceptions and terms of protection.

The presentation put emphasis of the fact that Pacific countries are not particularly active in the IGC and there is a need to have a national/regional position on the matter. Proposals were made to introduce the issue in the agenda of the Pacific Island forum or as part of the activities of SPREP.

### Mapping Exercise – Policy Institutions and Law



### Overcoming institutional challenges: Two case studies

Participants were to study 2 different cases: Kava and Cupuaçu. After an introduction to the cases and an explanation of the methodology, two groups per case were formed. The following tasks were assigned to all groups:

1. Lessons learnt from case
2. What would you have done differently?
3. What would you do to avoid mistakes?
4. How to extract value/benefits for your country?

In the plenary, each group reported on its findings and the two groups per case study competed on the better solution and answers to the assigned tasks.

### The case of Cupuaçu

One of the two cases that were studied and analysed was the Cupuaçu case. Cupuaçu is a fruit native to the Brazilian Amazon, of the Cocoa family, widely used by Amazonian peoples to make ice-cream, juices, jellies and deserts. Asashi Foods, a Japanese food multinational

company registered the name Cupuaçu as their trademark, before the Japanese Patent Office. It also applied for a patent on a process of producing cupulate (a product similar to chocolate) from the seeds of Cupuaçu. Brazilian civil society organizations held several manifestations across the country, protesting against the misappropriation of Cupuaçu by the Japanese, which helped to raise awareness on ABS issues in the country. With the assistance of lawyers, they were able to obtain the nullification of Cupuaçu trademark before the Japanese Patent Office, as well as to prevent the granting of the patent over the cupulate process.

The Japanese Patent Office had to recognize that Cupuaçu was the name of a Brazilian fruit, and therefore a generic name, that could not be recognized as a trademark. The patent over the cupulate process could not be granted either, because the Brazilian agricultural research institution EMBRAPA had already filed a request for an international patent over cupulate, which meant that the Japanese company had made no inventive step that could justify a patent.

The two working groups that worked on the Cupuaçu case received a set of questions, elaborated by the trainer, which they had to answer after studying some documents with information about the case that were distributed to them. These questions included lessons learnt from this case, the role of civil society in giving visibility to biopiracy cases, how to apply different international instruments (CBD, NP, etc) to this concrete case, etc. The groups also had to answer the question How they could have done differently from the real case. The two different working groups that analysed the Cupuaçu had the chance to discuss and compare their conclusions. Representatives of the two different working groups made powerpoint presentations on the case studies, to the whole plenary, giving rise to a lot of debate and discussions.

## **Thursday, August 15, 2013**

### **Session 6 Including Intellectual Property Rights into ABS Agreements**

#### **Part 1: Basic elements of ABS contracts**

The presentation introduced main issues that need to be taken into consideration when drafting, preparing and negotiating ABS contracts. It was considered important to understand that contracts do not work in isolation. They work within the national regulatory framework. In this regard, ownership/legal status of GRs and TK are particular important to prepare solid contracts. The presentation pointed at key elements of ABS contracts including:

- The scope
- The parties
- Purposes (commercial vs. non commercial research)
- Subject matter (legal status of GRs and TK)
- PIC (Background, rationale, core elements (for what; by whom; how/form; when?))
  - PIC from government

- PIC in the context of TK/community governance
- MAT (Background, rationale, core elements)
- Benefit Sharing clauses (monetary and non monetary)
- Other clauses, in particular
  - The treatment of the material and transfers;
  - Confidentiality;
  - Warranties;
  - Responsibilities;
  - Monitoring and reporting;
  - Duration and termination.

The session on ABS Agreements is at the core of the course. This presentation took a legal approach to what can work and what will not work in an ABS Contract. It looked into the challenges of ABS-Contract on the provider side and the user side and identified elements that should be included in it. Experiences from existing contracts were presented.

The method is PP presentation with open floor so the participants can pose questions, clarifications and comment as we go along in the presentations.

Looking into the legal landscape for the ABS-Contract is a hands-on topic that participants enjoyed and wanted more details on. The group was very much engaged in the practical experiences. What was a clear feedback is that they are very interested in success criteria for making a good ABS-Contract and more interested in the practical experiences than the overall systems set up by the countries.

Based on the feedback by the participants, the session should be made more practical. Rather than looking in general experiences and figures on ABS contracts the session should be geared towards analysing contract clauses and policies. Practical tools and analysis should be in the focus.

### **Session 6 – Part 2: Pacific Perspective**

Clark Peteru from the Secretariat for the Pacific Regional Environment Programme (SPREP) presented an overview of activities with the ABS Initiative on ABS in 2012 and 2013. He elaborated on future activities by SPREP to assist countries to ratify and implement the Nagoya Protocol on ABS, funded by the GEF Nagoya Protocol Implementation Fund (NPIF). About 11 countries member to SPREP handed in their letter of intent to participating in the activities of the NPIF, amongst them nearly all of the participants' countries.

There was a lively debate among participants and the SPREP representative on SPREP's work and joint activities in the region on ABS.

### **Session 6 – Part 3: Simulation of Negotiations of a Bioprospecting Case (Rooibos)**

The role play is based on a real bioprospecting case from South Africa. Participants were assigned five different roles: a business representative, the Ministry of Environment, the Office of Intellectual Property, a biotrader, and an indigenous community. Participants had one hour to prepare themselves in their stakeholder groups to strategize on how to negotiate. Separate information was given to the stakeholder groups regarding the interests

and objectives of the negotiations. Negotiations took place in three different negotiation groups with the aim of reaching an agreement with all five stakeholders.

## **Friday, August 16, 2013**

### **Session 6 – Part 3: Results of the Negotiations**

Participants took part in the role play with a lot of enthusiasm. At the end of the role play, participants presented the results of their negotiations. Strategies, experiences and results were discussed in plenary and the results scrutinized by the trainers.

All of the groups came up with an agreement. These varied considerably and the simulation showed the creativity of the negotiators. The trainers commented on the results of the negotiations and compared aspects of it with factual agreements.

The session was a great learning session on negotiation.

### **Session 6 – Part 4: National experiences in other parts of the world – Costa Rica, the Andean Pact Countries and Norway**

Short introductory presentations gave participants an insight into other countries' national legislation, namely on Costa Rica, the Andean Pact Countries and Norway.

### **End of Training**

The training ended at 12.00 pm after a feedback session (written and oral comments) and a certification ceremony.

## Conclusions and Feedback

### Training methods and content

- While all participants were professionals in their field, their knowledge on both intellectual property rights and relevant international policy fora was very limited. The training was providing a good basis for further learning.
- It was important to be flexible on the training schedule of the course in order to take into account regional needs, the knowledge level and interests of participants arising during the training.
- Participants should be requested in advance to identify national cases and to prepare case studies for the meeting and to request the host country to give a presentation of its ABS situation in the country.
- Trainers should be knowledgeable in advance about the membership of the countries the participants are coming from in the international institutions and legal instruments (WIPO, WTO, UPOV, CGRFA, PCT, ITPRGRA etc.).
- It is very important to include case studies in the trainings, since they are a good way of applying theoretical instruments to concrete cases, so that they become more tangible. The study and analysis of concrete case studies make the training more alive, and stimulate participants to think in a more practical and concrete way. Besides, they provide a break from long powerpoint presentations, which can become tiring after a certain period of time.
- The simulation (role play) revealed a lack of negotiation capabilities.
- There was a lot of interest in drafting ABS Agreements and ABS contract law.

### ABS implementation in the Pacific region

- There is a need to develop ABS policy and regulations in the Pacific states. There was a request for more support particularly on the national level. Some participants showed interest in having technical assistance to develop their national ABS laws, since the training showed that the level of applicability of international instruments such as CBD and the Nagoya Protocol is low for countries that do not have national ABS laws. Some countries asked for support on the national level to develop national policy and legislation, others requested more national trainings.
- While it was recognized that sharing of experiences and exchange of information is very pertinent on the regional level, policies and laws are more likely to evolve on the national level as the Pacific region has a complex and divers structure.



- Regarding the need for national policy and law, one example is Fiji: In Fiji, many NGOs (Conservation International, World Conservation Society, WCS, WWF, IUCN) and student researchers from universities abroad are working on biodiversity in the region. There is a Memorandum of Agreement between the Fiji government and these NGOs. They are conducting research with Fiji on the basis of the Memorandum of Agreement on marine resources in particular. There is a need to further elaborate on the Memorandum of Agreement to turn it into a contractual agreement. Agreements done by the NGOs with third party researchers should be regulated by a third party clauses in the contractual agreement.
- There was a feeling that national activities would enable countries to develop national approaches to ABS as it would bring together different national stakeholders. This was preferred over regional regulatory and policy approaches. However, the importance of sharing experiences and exchanging ideas on a regional level was highlighted.
- Recommendation by participants to each other: Write to your Minister to put negotiations within WIPO on TK on the agenda of the Pacific Islands Forum (PIF) and SPREP, preceded by the recognition of the need in the country to act on the issue.

## Feedback

In general, participants were very satisfied with the training. For all of them it was a steep learning curve both on ABS as well as on IPR. The following issues were particularly highlighted:

- More examples from the Pacific region with regard to ABS/Bioprospecting cases, in particular also more examples of TK from the region (Note from trainers: This is hard to get).
- Deepening of knowledge on ABS contract issues
- Review of regional frameworks
- Training on the national level with participants coming from different offices relevant for ABS and IPR.

## Agenda

### Monday, August 12, 2013

8h30            Arrival and registration

9h00            Opening Session:

- Welcome by *Dr. Gudrun Henne* on behalf of the ABS Initiative
- Welcome by *Clarc Peteru*, Secretariat for the Pacific Regional Environment Programme (SPREP)

- Introduction to the Agenda, *Dr. Gudrun Henne*

10h00	Introduction of the Participants: Getting to know each other <i>Dr. Gudrun Henne</i>
10h30	Session 1: Introduction to Intellectual Property Rights – Why do they matter in the context of Access and Benefit Sharing? <i>Dr. Juliana Santilli</i>
11h15	Coffee break
11h30	Session 2 Part 1: Introduction to Patent Law <i>Morten Walloe Tvedt</i>
12h30	Lunch
14h00	Session 2 Part 1 ctd
16h30	Coffee break
17h00	Session 4 – Policy Institutions: WTO <i>David Vivas</i>
18h00	Ênd of Day 1

### **Tuesday, August 13, 2013**

9h00	Introduction to Day 2
9h15	Session 2 Part 2: Introduction to Geographical Indications <i>Dr. Juliana Santilli</i>
10h45	Coffee break
11h00	Session 3: Protection of Traditional Knowledge <i>Dr. Juliana Santilli, David Vivas</i>
12h30	Lunch
14h00	Session 4 – Policy Institutions: Nagoya Protocol Film 1: ABS – Briefly explains Film 2: People, Plants and Profits
14.40	Panel Session: “Hot chair” on Nagoya Protocol <i>Dr. Juliana Santilli, Morten Walloe Tvedt, David Vivas; Facilitation: Dr. Gudrun Henne</i>

- 16h30 Coffee break
- 16h45 Session 4: FAO and Farmers' Rights  
*Dr. Juliana Santilli*
- 17h45 End of Day 2

### **Wednesday, August 14, 2013**

- 9h00 Refresher of Day 2 and Introduction to Day 3  
*Dr. Gudrun Henne*
- 9h15 Session 4 – Policy Institutions: Commission on Genetic Resources for Food and Agriculture (CGRFA)  
*Morten Walloe Tvedt*
- 10h00 Session 2 Part 3: Plant Varieties and Plant Breeders' Rights  
*Dr. Juliana Santilli*
- 10h45 Coffee break
- 11h00 Session 4 – Policy Institutions: World Intellectual Property Right Organisation (WIPO)  
*David Vivas*
- 12h30 Lunch
- 13h30 Mapping Exercise – Policy Institutions and Law  
*Dr. Gudrun Henne*
- 14h00 Case studies: Kava and Cupuacu
  - Introduction to case studies and methodology
  - Group work
  - Plenary
Coffee break included
- 17h30 End of Day 3

### **Thursday, August 15, 2013**

- 9h00 Refresher of Day 3 and Introduction to Day 4  
*Dr. Gudrun Henne*
- 9h15 Session 6: Including Intellectual Property Rights into ABS Agreements  
*David Vivas, Morten Walloe Tvedt*
- Part 1: Basic Elements

Part 2: Experiences from around the world:

- TEFF Case
- Buthan

10h45	Coffee break
11h00	Session 6 Including Intellectual Property Rights into ABS Agreements ctd.
12h00	Pacific Perspectives: <ul style="list-style-type: none"><li>- Overview of SPREP Projects and Programmes 2013/2014</li><li>- Exchange of future needs and work plan of SPREP members</li></ul>
12h30	Lunch
13h30	Rooibos Role Play <ul style="list-style-type: none"><li>- Methodology</li><li>- Stakeholder Groups: Strategizing</li><li>- Negotiations</li></ul>
18h00	End of Day 4

**Friday, August 15, 2013**

9h00	Introduction to Day 5 <i>Dr.Gudrun Henne</i>
9h15	Results of the Negotiation Groups: Presentation of Agreements by Group 1,2,3 Interrogation by “General Inspector” on solidity of contracts.
10h45	Session 6 Including Intellectual Property Rights into ABS Agreements – National experiences:  Andean Pact and Costa Rica <i>David Vivas</i>  Norway <i>Morten Walloe Tvedt</i>
10h45	Coffee break
11h00	Feedback <i>Dr.Gudrun Henne</i>
12h15	Certification
12h30	Lunch

13h30

End of the Training

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