



Highlights of 4<sup>th</sup> Business Dialogue in  
Copenhagen – Focus on national regulations  
on ABS: What it means for Business

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# Outline of presentation

- **Observations on 2 issues:**
  - **How the varied nature of demand for access can be most effectively accommodated in national regulations?**
  - **How specific national regulations should be in respect to benefit-sharing?**
- **General observations**

# How the varied nature of demand for access can be most effectively accommodated in national regulations?

- Access can be for different purposes:
  - Basic research
  - Research for product development-
    - Cosmetics
    - pharmaceuticals
    - fabrics
  - Food & agriculture

# Cosmetic industry- Nature's best oil from shea butter



# Are insects the food of the future?



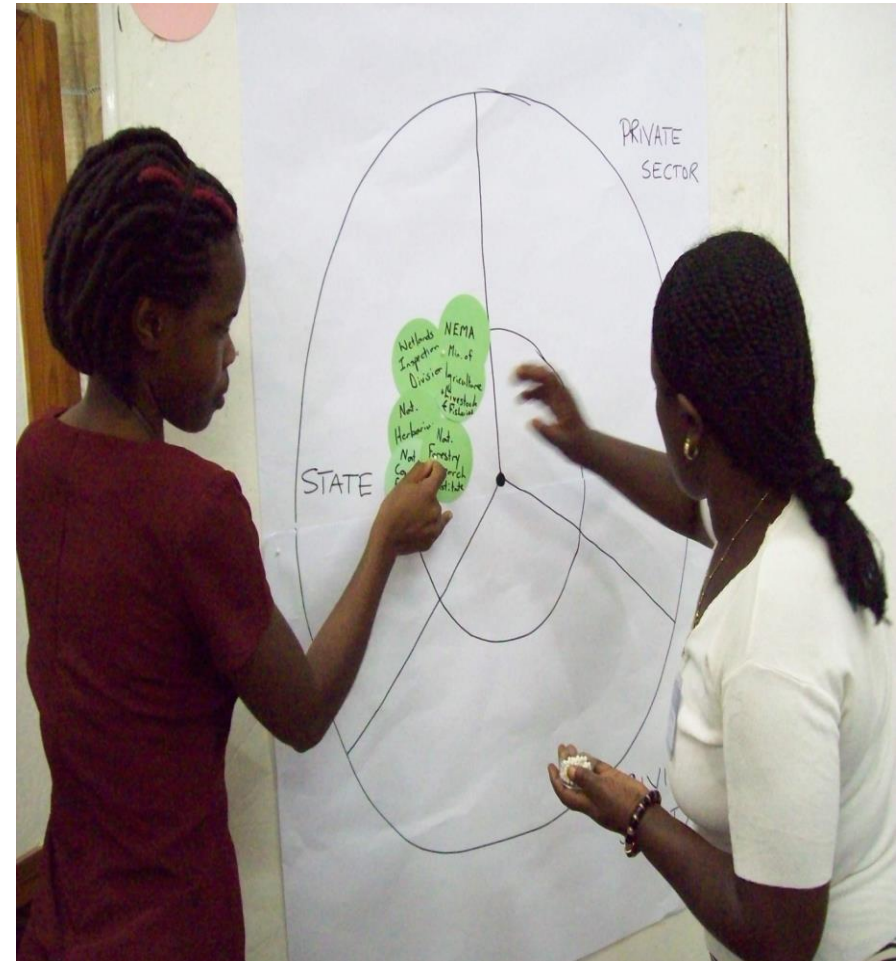
- Insects have many of the same essential nutrients as meat
- Globally about two billion people regularly eat insects
- At least 1,900 insect types are known to be edible
- Because of diverse access demands, there is need for flexibility in access patterns
- Mechanisms for improved access include -

## **Ensuring legal certainty for all actors (collectors, industry, regulators, IPLCs)**

- Develop framework regulations – allowing for sector specific guidance
- Define procedure for ABS
- Checklist to users outlining all required info & documents necessary to obtain necessary permits
- Clarity on treatment of confidential & proprietary information to prevent injurious disclosures

# Ensuring legal certainty cont..

- Clarity on mandates/competences of national authorities under the Nagoya Protocol, ITPGRFA etc & on collaborative linkages
  - Who does what & in what sequence?
  - Define entry points for researchers, gov'ts, IPLCs
  - Develop flowchart on linkages between institutional, IPLC & other stakeholders



## Simple access

- Users to be clear on purpose & motive of access.
- Simple & clear procedures for providers & users – no ‘one size fits all’ access procedures.
- Time-bound & fast processing of permits - 3 months
- Designate one stop centre.
- Draft & make available evolutionary model clauses/contract/certificates and permits to act as precedents for original collectors and subsequent users in the value chain.
- Recognize best practices and success stories



# How specific should national regulations be with respect to benefit-sharing?

- The benefit-sharing process should be clear & specific
- Benefit sharing rules should support IPLCs to create their own mechanisms for transparent, clear & consistent benefit-sharing.
- Benefit-sharing rules should reflect actual situation & business practices -
  - providing for negotiations between the user & provider on a case-by-case basis (watch out for information asymmetry!)

# Framework for benefit sharing

- Provide for different types of benefits-
  - Monetary and non-monetary benefits
  - Percentage-based benefit sharing (this should have a basis)
  - Up-front payments
  - Milestone payments
  - End-of-process payment
  - Mix of payments
- Provide mechanism on –
  - how the benefits should be shared
  - what the benefits should be used for in case of communal benefits

# General observations on ABS

- Establish framework regulations as opposed to strict frameworks
- Rules for access & benefit sharing should be clear but not laborious
- Guide all actors on interfaces between legal instruments e.g. NP & IT
- Ensure legal certainty in respect to issues that matter, e.g.-
  - Who grants PIC?
  - Who negotiates MAT?
  - What benefit-sharing mechanisms are envisaged?
- Make past cases on access & benefit sharing available (e.g. through creation of case databases)
- Provide for dispute resolution between parties

## **General observations on ABS cont...**

- Provide guidance to users as to whom they engage with and the types of issues that need to be addressed especially when engaging with IPLCs
- Formats of benefit-sharing agreements should be considered for inclusion in regulations
- Provide/facilitate legal/technical/scientific or commercial advice to providers to rebalance information asymmetry
- Provide targeted legal/negotiation advise/services to IPLCs to improve their ability to negotiate
- Benefits should reach local communities
- Ensure that benefits are not consumed in administrative costs
- Allow for evolution of the ABS law as it is being used