

THE ABS  
CAPACITY  
DEVELOPMENT  
INITIATIVE



L'INITIATIVE DE  
RENFORCEMENT  
DES CAPACITES  
POUR L'APA

# Setting the Scene

## Updates on ABS and the Nagoya Protocol

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**ABS Capacity Development Initiative**

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# Setting the Scene



- 1) National Records posted at the ABS Clearing House**
- 2) Overview about the EU ABS Compliance Regulation**
- 3) COP MOP 2 Agenda and AU Coordination**

# 1) National records at the ABS-Clearing House



## Parties to the Nagoya Protocol

- 86 Ratifications / 78 Parties
- Africa: 34 Parties, 9 Signatories, 11 Non-Parties

## ABS National Focal Points notified at the ABS-CH

- 171 ABS NFP, 50 from Africa

## ABS Competent National Authorities notified at the ABS-CH

- 36 ABS CNAs, 9 from Africa

# 1) National records at the ABS-Clearing House



## **ABS Regulation & Policies notified at the ABS-CH**

- Postings from 43 countries, including from 3 African countries

## **Internationally Recognised Certificates of Compliance notified at the ABS-CH**

- Postings from 4 countries, including from 1 African country

## **Check points notified at the ABS-CH**

- Postings from 11 countries, including from 1 African country

# 1) National records at the ABS-Clearing House



Country	Status	NFP	CNA	Regulations & Policies	IRCC	CP
<b>South Africa</b>	P	yes	National Department of Environmental Affairs	Biodiversity Act 2004, Patents Amendment No. 25 2005, Regulations on Bio-Propecting, ABS2008	1	NDEA
<b>Malawi</b>	P	yes	Environmental Affairs Department	Environmental Management Act 1996		
<b>Uganda</b>	P	yes	Uganda National Council for Science and Technology	ABS Regulations 2005		
<b>Benin</b>	P	yes	Centre d'Etude de Recherche et de Formation Forestiere, Ministère de Cadre de Vie et du Développement Durable			
<b>Comoros</b>	P	yes	Direction Générale de l'Environnement et des Forests			
<b>Ethiopia</b>	P	yes	Ethiopian Biodiversity Institute			
<b>Guinea-Bissau</b>	P	yes	(Individual Person)			
<b>Kenya</b>	P	yes	National Environment Management Authority			
<b>The Gambia</b>	P	yes	Department of Parks & Wildlife Management			

# 2) EU ABS Compliance Regulations 511/2014



## Art. 7 – Check points mandatory for Member States

- Check points are stages in the valorisation process
- Each Member States has to determine institutions that receive the relevant information from users
- Every user must declare fulfilment of the due diligence obligations according to Art. 4.1 when utilisation is undertaken with research funding
  - Financing through private or public **third party** funding
  - No notification for utilisation which is funded by public institutional or companies' **budgets**

# 2) EU ABS Compliance Regulations 511/2014



## Art. 7 – Check points mandatory for Member States

- Every user must declare fulfilment of the due diligence obligations according to Art. 4.2 at the stage of final development of a product
  - EU Implementing Regulations specifies 5 relevant situations
- National institutions are not obliged to check information submitted by users on a regular basis
- Checks must be undertaken following a risk-based approach, e.g. if the institution has received information about alleged misuse or misappropriation

# 2) EU ABS Compliance Regulations 511/2014



## Art. 4 – Obligations of the users

- “Users shall exercise due diligence to ascertain that GR and aTK which they utilise have been accessed in accordance with applicable ABS legislation or regulatory requirements, and that benefits are fairly and equitably shared upon MAT ...”
- Utilisation and transfer must follow MAT, if MAT is required by regulatory framework
- Users must seek, keep and transfer the IRCC and content of MAT, or the relevant national documents
- In cases of uncertainty about the available information, users must obtain access permit incl. MAT or abandon utilisation
- Users must keep information for 20 years



# 2) EU ABS Compliance Regulations 511/2014



## Art. 2 – Scope & Art. 3 - Definitions

**EU ABS compliance rules only apply when these six conditions are met:**

**1. Access to genetic resource or associated traditional knowledge**

"Genetic resources" means genetic material of actual or potential value.

"Genetic material" means any material of plant, animal, microbial or other origin containing functional units of heredity.

**Access to e.g. oils, isolated biochemicals, heat-treated material is not under the scope of the EU ABS regulation – but maybe under the scope of the provider country's ABS regulation**

# 2) EU ABS Compliance Regulations 511/2014



## Art. 2 – Scope & Art. 3 - Definitions

**EU ABS compliance rules only apply when these six conditions are met:**

2. Genetic resources accessed is under sovereignty of a State  
Access to GR outside of the jurisdiction of States e.g. in the Antarctica or the High Sea - no compliance obligations in the EU
3. Acquisition occurs in a Party to the Nagoya Protocol  
Access to GR and aTK in non-Parties - no compliance obligations in the EU  
Exclusion of any access before the entry into force of the NP for a specific country

# 2) EU ABS Compliance Regulations 511/2014



## Art. 2 – Scope & Art. 3 - Definitions

**EU ABS compliance rules only apply when these six conditions are met:**

4. ABS regulative framework exists in this Party

No ABS framework / no ABS contract – no compliance obligations in the EU

Exclusion of access to any GR, including commodities, in EU countries without access regulation, e.g. DE

5. Access after 12 Oct. 2014

Exclusion of all GR and aTK which were accessed before

Exclusion of any future utilisation of such GR and aTK

# 2) EU ABS Compliance Regulations 511/2014



## Art. 2 – Scope & Art. 3 - Definitions

**EU ABS compliance rules only apply when these six conditions are met:**

### 6. Utilisation in the EU

“Utilization of genetic resources” means to conduct research and development on the genetic and/or biochemical composition of genetic resources, including through the application of biotechnology as defined in Article 2 of the Convention;

**Exclusion of any activity that is not R&D on the GR, e.g. several ecological and taxonomical methodologies, trade for use in production process**

# 3) Agenda of COP MOP 2 and AU Coordination



1. Report of the Compliance Committee (Article 30).
2. Report of the Subsidiary Body on Implementation
3. The Access and Benefit-sharing Clearing-House and information-sharing (Article 14).
4. Financial mechanism and resources (Article 25).
5. Cooperation with other international organizations, conventions and initiatives.
6. Report of the Executive Secretary on the administration of the Protocol and on budgetary matters.
7. Measures to assist in capacity-building and capacity development (Article 22).

# 3) Agenda of COP MOP 2 and AU Coordination



8. Measures to raise awareness of the importance of genetic resources and associated traditional knowledge (Article 21).
9. The need for and modalities of a global multilateral benefit-sharing mechanism (Article 10).
10. Assessment and review of the effectiveness of the Protocol (Article 31).

**Wednesday, Sep 28, 18:00**

African Coordination Meeting for all African government representatives

# Thank you for your attention !



## Contact

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