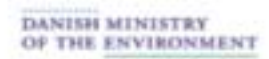




The Nagoya Protocol and national ABS frameworks – Implications for animal genetic resources

Rome, Italy
01.02.2017



Nagoya Protocol on ABS



- Adopted in October 2010
- Entered into force in October 2014
- Currently 95 Parties
- Contribution to biodiversity conservation and better livelihoods

Legal certainty and transparency

- **Preventing misappropriation** of genetic resources (GR) and associated traditional knowledge (aTK)
- For **providers**: ensuring **benefit-sharing** once GR and aTK leave the provider country for utilisation
- For **users**: providing for **clear and transparent procedures for access** to GR and aTK

ABS: A rights-based approach



Sovereignty and ownership

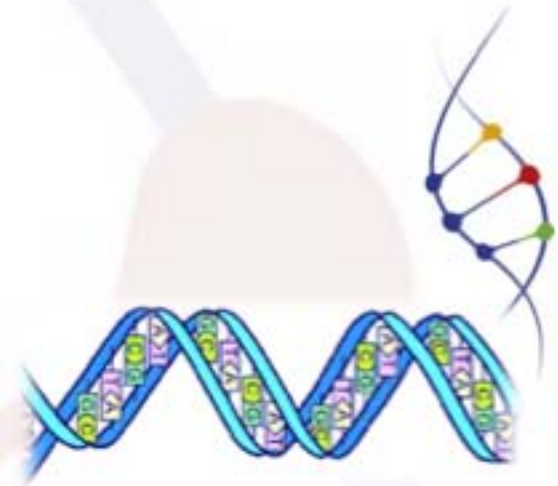
1962: Resolution 1803 (XVII) of the UN General Assembly declares "right of peoples and nations to permanent sovereignty over their natural wealth and resources"

1992: CBD Art. 15.1 reconfirms the right of States to regulate access to their genetic resources based on their sovereign rights over natural resources

2007: UNDRIP Art. 31.1 declares the right of indigenous peoples to maintain, control, protect and develop their traditional knowledge and manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds and medicines, as well as their intellectual property over such cultural heritage

Scope of the Nagoya Protocol

- **Genetic resources** within the scope of Article 15 CBD and the benefits arising from the utilisation of such resources
- **Traditional knowledge associated with genetic resources** within the scope of the CBD and the benefits arising from the utilisation of such knowledge
- **Utilisation** = research and development on the genetic and/or biochemical composition of genetic resources, including through the application of biotechnology



The ABC of ABS



**Access,
Benefit-sharing and
Compliance**

Countries providing GR shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses

Competent National Authority (CNA)

Provider

Genetic resources /TK
PIC / MAT
Benefits

User

Checkpoint(s)

Each Party shall take measures to the effect that benefits arising from the utilization of genetic resources as well as subsequent applications and commercialization shall be shared in a fair and equitable way

PERMIT

ABS-CH

CERTIFICATE

Each Party shall take measures to provide that GR utilized within its jurisdiction have been accessed in accordance with prior informed consent and that mutually agreed terms have been established

Translation into national practice (1)



PIC – MAT – ABS Permit

- Ownership rights over genetic resources and associated traditional knowledge must be determined by national law
- Ownership can be governmental, individual, and collective
- Governments may require PIC in **all** cases of access to genetic resources within the scope of national ABS regulations
- In the context of GRFA, the issue how to apply ABS concepts on privately owned GR deserves high attention
- If PIC is required, the CBD and the Nagoya Protocol add the concepts of
 - Mutually Agreed Terms - bilateral private ABS contract
 - PIC / ABS Permit – unilateral statement by governmental authorities allowing and regulating certain activities

Minimal scheme for access to GR and aTK



Application for access at CNA / IPLCs

Prior Informed (process)

- Information
- Consultation



Mutually Agreed Terms

- Negotiations (process)
- Agreed contract (document)

Consent (decision)



governmental ABS Permit

(document recognising PIC/decision and MAT/contract and the due processes)

Linking access permits with compliance systems

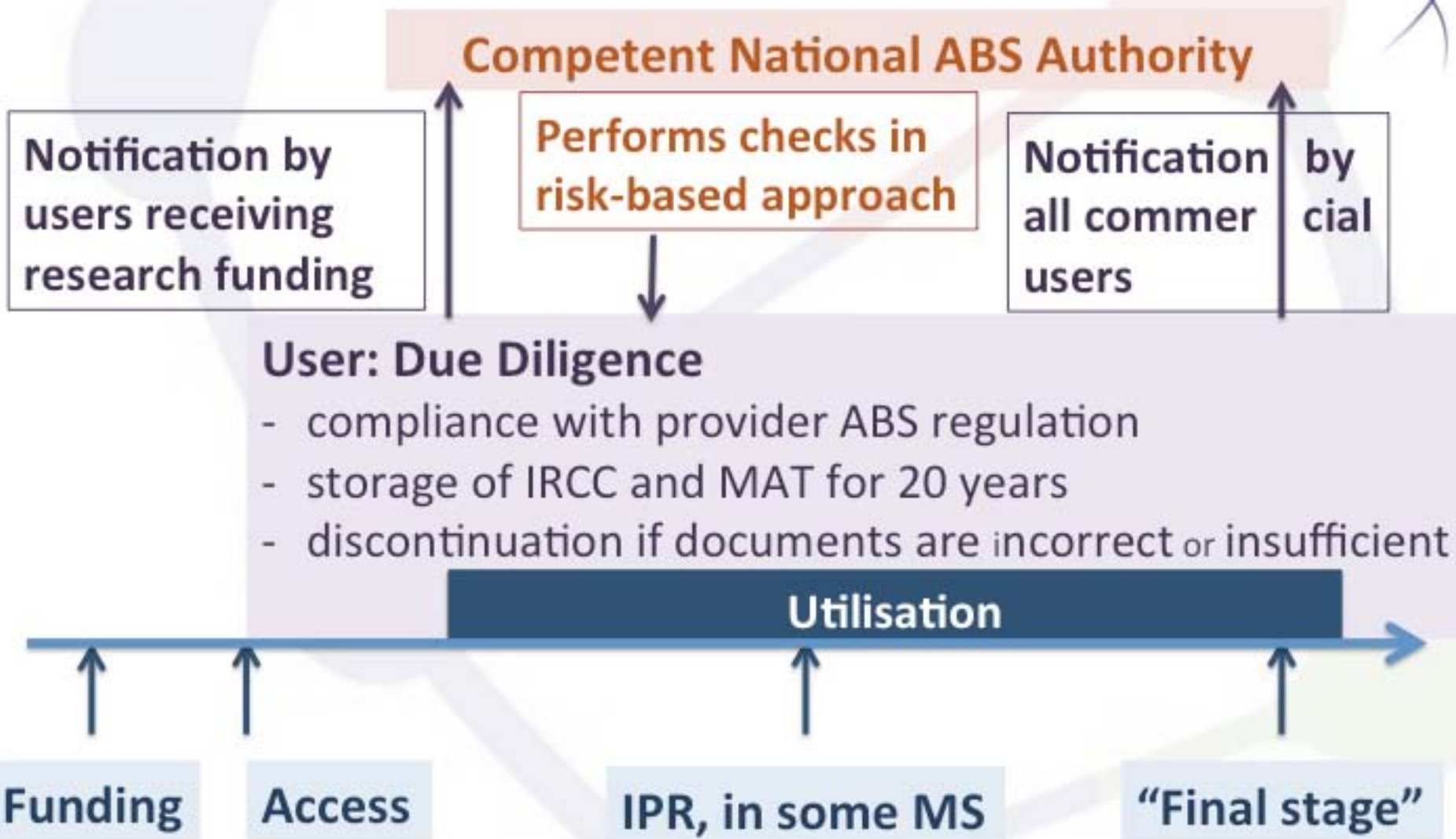


IRCC – Innovative instrument making ABS functional

- Goal of CBD, Nagoya Protocol and national ABS framework is benefit sharing
- If utilisation takes place outside of providing country, benefit sharing relies on three pillars
 - Effective Mutually Agreed Terms – being enforceable in providing country and the country of the user
 - Effective system monitoring utilisation – implemented in providing country and the country of the user
 - Effective compliance system – IRCC is the central link between national permit and monitoring systems
- IRCC is the “universal ABS passport” – to be recognised as core element in capacity development

Translation into national practice (2)

EU ABS compliance system



AnGR and ABS - India



ABS Permit for 4000 bovine embryos transferred to Brazil

- Ongoing transfer of bovine GR from India to Brazil since 1960s in the context of their bilateral cooperation
- In 2012, Brasif S.A. (Brazil) applied at National Biodiversity Authority (NBA) for accessing Ongole, Gir and Kankrej embryos
- In 2016, ABS permit was issued and 12 mill INR (appr. 166,000 EUR) benefit sharing were paid by Brasif S.A. to NBA
- Embryos were transferred by the privately owned Sagwadi farm in Gujarat as in previous years
- 90% of monetary benefit sharing must be passed to the providing community that holds or developed the GR
- The original providers at community level cannot be determined, benefit sharing should go to the State Biodiversity Board of Gujarat

AnGR and ABS - Kenya



Domestic non-commercial breeding with native goats

- In 2011, ILRI, the Jomo Kenyatta University of Agriculture and Technology (JKUAT) and the CGIAR Research Program on Climate Change, Agriculture and Food Security (CCAFS) started breeding “climate smart” goats
- Small East African and Galla goats were interbred in farm-based trials in Nyando, a sub-county in Western Kenya
- Crosses combine positive traits of parents and provide more food and income to the farmers
- Kenyan education institutions are exempt from ABS when accessing / utilising GR in Kenya without transborder transfer
- ILRI and ABS Initiative plan cooperation on clarifying ABS issues in research and breeding projects