



BioTrade and Access and Benefit-Sharing: Issues and Experiences in Implementation

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What this Webinar will cover?

- Defining and explaining BioTrade
- Linking issues between trade, BioTrade, Access and Benefit Sharing (ABS)
- Sharing examples and experiences on differentiating BioTrade and ABS for implementing the Nagoya Protocol



Links between BioTrade and ABS –

Key Issues

- Limited guidance from the Nagoya Protocol
- Interpretation and clarifying relationship left to individual countries;
- Significant activities on trade in biological resources at national level;
- Limited understanding of BioTrade principles;
- Misinterpretation of words such as ‘commercial utilization’, ‘extracts and derivatives’, ‘value addition’ and others



Differentiating BioTrade and ABS

- In legal terms, access related to BioTrade and ABS are two different concepts although they might be mistakenly understood to mean the same.
- While one looks at trade in biological resources the other looks at research, development and prospecting on resources.
 - This misunderstanding may be due to the fact that both of them involve a variety of value chain actors, and
 - Activities involved in the utilization of genetic resources and the products derived there from



BioTrade and ABS

Products from biological resources	BioTrade	ABS
Extracts, natural dyes, production of soaps, cream and butters, moisturizers, infusions from medicinal plants.	Supply of raw materials and natural ingredients to prepare such products employing fair trade practices	In case when access is sought to undertake R&D to eventually extract and commercialize natural ingredients or products containing them
Essential oils and natural medicines	Production under existing or known methods employing fair trade practices	R&D based on essential oils and natural ingredients Depends on the national legislation.



The Key Problem !

Attempting to cover any/all commercial uses of genetic resources under national ABS frameworks will not only create serious conflicts between the trade policies of countries and implementation of the Nagoya Protocol, but also will undermine the objective of ABS as elaborated under the CBD and the Nagoya Protocol.



Commodity Trade

Commodity trade always promoted and contributes to national and local economy

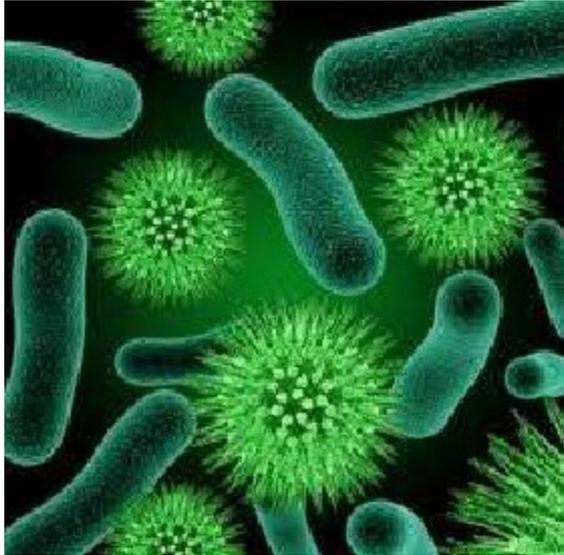


Such trade in biological/genetic resources is largely out of preview of conservation, sustainable use and ABS

Data on trade in monetary returns using GR generally vague



Utilization and Commercial Utilization



- Under Nagoya Protocol there is no definition for commercial utilization.
- Utilization of genetic resources defined as *“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”*

Lot of confusion exist at national level on differentiating commodity trade and commercialization



How countries have defined 'Utilization' and 'Commercial Utilization'

A

"commercial utilization" means end uses of biological resources for commercial utilization such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping;

B

'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



Defining Utilization and Commercial Utilization

C

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.

BioTrade: means activities of collection, production, transformation, and commercialization of goods and services derived from native biodiversity under the criteria of environmental, social and economic sustainability

D

“commercialisation” means the following activities in relation to genetic resources -

- (a) the filing of any complete intellectual property right application, whether in or outside the country;
- (b) obtaining or transferring any intellectual property rights or other rights;
- (c) *commencing clinical trials and product development, including the conducting of market research and seeking pre-market approval for the sale of resulting products;*
- (d) *the multiplication of genetic resources through cultivation, propagation, cloning or other means to develop and produce products, such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours and extracts; or*
- (e) any other legal, commercial or scientific process aimed at acquiring, protecting or realising any real or potential commercial value of any genetic resources or any component or any associated traditional knowledge; and
- (f) transfer of results of any research based on the accessed genetic resources and/or associated traditional knowledge



Complimenting BioTrade and ABS

- ABS could be used to achieve BioTrade as a means of livelihood to local communities to ensure sustainability, conservation and socio-economic development.
- While applying the NP ABS obligations, businesses should also look into fulfilling the other principles of BioTrade and thus promote BioTrade implementation in the value chains.



Complimenting BioTrade and ABS

- BioTrade programs could develop local communities' capacities to engage with market and commercial stakeholders in trade processes.
- This capacity development coupled with sensitization of rights under ABS could prove enabling for the communities' stakeholders to engage with accessors/users of genetic resources and associated knowledge through prior informed consent and mutually agreed terms.



6 things to do!

1. Ensure the ABS policy/framework considers the specificities of policies of trade and commerce
2. Clarify scope of the framework from the purview of utilization
3. Differentiate commodity trade and commercial use (from ABS perspective)



Things to do...

4. Make ABS norms more predictable
(exemptions and special conditions)
5. Ensure the focus is on promoting use
and research and development
6. Provide for easy means to deal with
non- commercial research and
development