



“Nagoya Protokoll: Unterstützende Beratungsstelle für den Sektor “Akademische Forschung”

First Workshop of the German Nagoya Protocol HuB

17 and 18 June 2020 (video conference)

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List of Acronyms

ABS	Access and benefit-sharing
ABSCH	Access and benefit-sharing Clearing House
ABS Initiative	ABS Capacity Development Initiative
AWI	Alfred-Wegener-Institut, Helmholtz-Zentrum für Polar- und Meeresforschung
BfN	Bundesamt für Naturschutz (German Federal Agency for Nature Conservation)
BMU	Bundesministerium für Umwelt, Naturschutz und nukleare Sicherheit (Federal Ministry for the Environment, Nature Conservation and Nuclear Safety)
CETAF	Consortium of European Taxonomic Facilities
CNA	Competent National Authority
DECLARE	DECLARE NAGOYA IT System
DFG	Deutsche Forschungsgemeinschaft
DNFS	Konsortium der Deutschen Naturwissenschaftlichen Sammlungen (the Consortium of German Natural Science Collections)
EU	European Union
EU ABS Regulation	Regulation (EU) No 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union Text with EEA relevance
EU Guidance Document	Guidance document on the scope of application and core obligations of Regulation (EU) No 511/2014 of the European Parliament and of the Council on the compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilisation in the Union
FAQ	Frequently asked questions

FRB	La Fondation pour la recherche sur la biodiversité
GEOMAR	GEOMAR Helmholtz-Zentrum für Ozeanforschung Kiel
GEF	Global Environment Facility
GNP HuB	German Nagoya Protocol HuB
iDiv	Deutsches Zentrum für integrative Biodiversitätsforschung Halle-Jena-Leipzig
IT	Information Technology
DSMZ	Leibniz-Insitut-Deutsche Sammlung von Mikroorganismen und Zellkulturen
LVB	Leibniz-Forschungsverbund Biodiversität (Leibniz Research Alliance for Biodiversity)
MAT	Mutually Agreed Terms
MPI	Max-Planck-Institut für Marine Mikrobiologie, Bremen
MTA	Material Transfer Agreement
NFP	National Focal Point
NP	Nagoya Protocol
PIC	Prior Informed Consent
SCBD	Secretariat of the Convention on Biological Diversity
UBer	Nagoya Protokoll: <u>U</u> nterstützende <u>B</u> eratungsstelle für den Sektor “Akademische Forschung”
UNDP	United Nations Development Program
VBIO	Verband Biologie, Biowissenschaften und Biomedizin in Deutschland (German Life Sciences Association)
ZFMK	Zoologisches Forschungsmuseum Alexander Koenig

Background

The Project

The project “Nagoya Protokoll: Unterstützende Beratungsstelle für den Sektor “Akademische Forschung”¹ (UBer)² is being implemented by the Leibniz Institute-German Collection of Microorganisms and Cell Cultures (*Leibniz-Institut-Deutsche Sammlung von Mikroorganismen und Zellkulturen*, DSMZ) together with its project partners - the Consortium of German Natural Science Collections (*Konsortium der Deutschen Naturwissenschaftlichen Sammlungen*, DNFS), the German Life Sciences Association (*Verband Biologie, Biowissenschaften und Biomedizin in Deutschland*, VBIO) and the Leibniz Research Alliance for Biodiversity (*Leibniz-Forschungsverbund Biodiversität*, LVB). In July 2020 (after the workshop), the project’s steering committee adopted a new project name: “German Nagoya Protocol HuB” (GNP HuB), where HuB stands for “Hilfe und Beratung”.³

The aim of the GNP HuB project is to support academic researchers in Germany, who use genetic resources, by providing information/guidance on how to fulfill their obligations arising from national laws on access and benefit-sharing (ABS) in countries providing genetic resources as well with their obligations arising from the implementation of the European Union’s Regulation (EU) No. 511/2014 (EU ABS Regulation).

The project (October 2019 – March 2022) is financed by the Federal Agency for Nature Conservation (*Bundesamt für Naturschutz*, BfN) with funds from the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (*Bundesministerium für Umwelt, Naturschutz und nukleare Sicherheit*, BMU).

The first phase of GNP HuB Project is concerned with investigating and gathering experiences with ABS from the German research community as well as identifying existing ABS information sources and tools. This information will be used in the second phase to develop more targeted information/tools to address any identified gaps/unmet needs by the research community. In the third phase, a website with ABS information and tools will be created and a “help desk” for academic researchers will be established.

¹ Nagoya Protocol: Help Desk for the Academic Research Sector

² The acronym UBer is for internal use only. At the time of the workshop, the project partners were still in the process of developing a name for external communication purposes.

³ In English “help and guidance”.

The first GNP HuB Workshop

On 17 and 18 June 2020, the first GNP HuB workshop was held. Due to the ongoing global COVID-19 pandemic and the associated travel restrictions in place in Germany, the workshop was conducted online in two half-day sessions.

The workshop brought together 29 participants from the research community (collections, research institutes, and universities) as well as government representatives and legal experts.

The aim of the workshop was to:

1. to raise awareness among the participants about the project so that they can spread the word as well as to potentially identify ways of working together to implement the project;
2. to gain a better understanding of the experiences of the participating experts, and specifically to find out in which countries they have been involved in ABS processes, to understand their experiences both with ABS processes and due diligence obligations under the EU ABS Regulation, to know which information sources and tools they use, and to understand what further resources and tools may be needed; and
3. to gain insight into how to use the project website to communicate strategically and effectively with the research community.

The workshop included:

- Day 1:
 - presentations from the BfN and DSMZ on the context and background information on the project;
 - impulse presentations by participants with hands-on ABS experience;
 - breakout group discussions (each with 6-9 people) on ABS experiences, including practices, problem solving, sources of help and lessons learned;
- Day 2:
 - impulse presentations and discussion in the plenary on ABS information sources and tools; and
 - breakout group discussions (each with 6-9 people) on information sources and tools, awareness-raising and communication.

The workshop was conducted in German. This report has been written in English to make it accessible to a wider audience, including relevant practitioners and experts in Germany who may not speak German.

Results of the workshop: Wednesday, 17 June 2020

Introduction round

A short introduction was held, where each participant was asked the following questions:

- Where do you work? What is your role in the ABS/Nagoya Protocol context?
- In which provider countries have you already been involved in ABS processes?
- How do you rate your experience with ABS - good, bad or somewhere in between?

Roles: Participants came from universities, research institutes, museums, collections, and government. A number of participants are not users of genetic resources directly and have not had any direct experience with obtaining ABS documents in provider countries because they are administrative staff. The spectrum of experience ranged from “beginners”, who have recently begun working on Nagoya Protocol (NP) related issues, through to actors who have been involved with the topic for a number of years. Some participants provide support on NP issues for researchers at their respective institutions. Several participants have a dedicated part-time position for this purpose, whereas others provide support on the NP in addition to their other duties.

Provider countries: Some participants have had concrete ABS experiences in various provider countries in Europe, Africa, South America, and, Asia. Specific countries included Brazil, China, France, Ethiopia, India, Indonesia, Madagascar, Philippines, Senegal, Spain and Vietnam. One institute alone has been involved in such processes in over 40 different countries.

Rate your experience: Experiences range from ABS processes that were quickly and successfully finalized through to processes that have involved a lot of frustration and failed attempts at getting ABS documents (sometimes over a number of years). The type of experience depends heavily on the individual provider country, although it was noted that, in some cases, researchers have had very different experiences in the same country. Challenges experienced in provider countries tend to relate to the lack of administrative structures or capacity, clarity on what procedures are, and long delays. Language barriers also play a significant role. It was noted that it is uncommon to hear about positive ABS cases, although they are known to exist. Positive ABS experiences have been had in countries with similar administrative structures to Germany, such as France and Spain. One institute has also had a positive experience with obtaining a retroactive permit from Panama.

Presentations on the context and project

Three presentations were held to provide information on the context and reason for the project as well as to provide information about the project itself.

Thomas Greiber, Bundesamt für Naturschutz

Thomas Greiber presented on “Nagoya Protocol Challenges”, noting that there are a number of challenges on both the user and provider side. If researchers have followed national ABS laws in provider countries, they are on the right track to complying with the EU ABS Regulation. However, he noted that the European regulation and corresponding German law create additional obligations – general due diligence obligations, the obligation to submit a due diligence declaration, and the obligation to support the BfN with user checks. Different types of non-compliance may be viewed differently, e.g. not following national ABS laws of provider countries is regarded as a more serious infringement than forgetting to submit a due diligence declaration.

Mr. Greiber pointed out that there are different reasons as to why compliance is important. Sanctions are possible but there are other considerations for researchers, for example, biopiracy claims, which can potentially lead to serious reputation damage.

In provider countries, researchers may need to obtain Prior Informed Consent (PIC) and enter into Mutually Agreed Terms (MAT) according to the national laws. Working together with local cooperation partners to get the relevant documents is a good strategy and can potentially build trust. It was noted that the National Focal Point (NFP) should be contacted to check the current legal situation in the country before any material is obtained. Mr. Greiber pointed out various challenges, including the complexity involved with different ABS systems across the world, the incompleteness of the information in the ABS Clearing-House (ABSCH) and the lack of information in English on national measures. A common issue is also that NFPs or competent national authorities (CNA) in the provider countries do not respond or are very slow to respond to requests for information. The BfN tries to support German users as much as possible with such issues.

Mr. Greiber also referred to the ongoing challenges on the user side. Lack of awareness about the NP is still a big issue. BfN’s experience has shown that some PhD students are better informed about their due diligence obligations than more senior staff, e.g. professors. He pointed out that there are also still a number of common misunderstandings, e.g. that basic research is not NP relevant, that material obtained from third parties makes those parties responsible, or that people can simply use “old” material stored at their institution without further enquiry. Mr. Greiber emphasized that the use of material without any type of enquiry is not considered diligent. Users need to determine what is in scope or not, where the relevant permits are stored or whether a permit may be required for a change of use of the material, for example. Mr. Greiber also addressed institutional issues, noting that many place the entire responsibility for ABS and due diligence on the individual researchers. He noted that while both individuals and institutions may be users, institutions also have other responsibilities, which they cannot ignore. Institutions are required to ensure that their staff is informed and research at the

institution is done in a compliant way. Institutions can also be fined for infringements as well as the individual users.

Dr. Amber Hartman Scholz, DSMZ

Amber Scholz explained the impetus for the project. An expert discussion took place in 2018 with the BfN and BMU and other ministries responsible for ABS issues together with DSMZ and with representatives of the project partners (DNFS, VBIO, LVB). During the meeting challenges faced by the biodiversity research community due to the NP were highlighted, as well as the possible implications of these challenges for research. Following this discussion, the project proposal for the GNP HuB project was initiated by BfN and developed amongst the partners.

Elizabeth Karger, DSMZ

Elizabeth Karger provided a short presentation on the GNP HuB project, outlining the project goals project duration, financing, responsibilities and phases as well as the workshop goals (see the introduction for this information).

Impulse presentations on experiences with ABS

Short impulse presentations of 3-5 minutes were held by four participants in order to provide insight into the experience with ABS (both positive and negative) and to kick-off the discussion.

Dr. Jörg Süling, GEOMAR Helmholtz-Zentrum für Ozeanforschung Kiel

Since 2018, Jörg Süling has been the NP compliance advisor for the biologists at GEOMAR Helmholtz-Zentrum für Ozeanforschung Kiel (GEOMAR), research institute focused on the marine environment. Approximately 100 of the 500 researchers at GEOMAR conduct NP relevant research. An internal NP information tool has been developed with tips and strategies as well as a template for enquiries. A number of colleagues seek help from him and he provides information on national measures (application documents, contact details for NFPs etc.), which he obtains from the ABSCH. If there is no information on the ABSCH, the CBD focal point is contacted or attempts are made to make contact the right authorities through other avenues. Since April 2020, the NP coordination has been located in the office, which is responsible for export, import and customs etc. This means that NP compliance is now bundled together with the department that deals with other permits.

GEOMAR has had positive experiences with Norway, Denmark and Sweden. Some countries, which are not CBD or NP countries, e.g. United States of America and Canada, are also quick to answer and only restrict sampling in certain areas, e.g. National Parks. GEOMAR has had a positive experience with Panama, where the researchers were able to obtain a retroactive permit. This was necessary as the researchers only became aware of their ABS obligations after the sampling had already been conducted.

In Greenland, a permit was obtained from the Ministry of Industry and Energy Research. In Mauritania, the process has been difficult, for example.⁴

Dr. Süling suggested that there needs to be more support and networking, more documents need to be available in English, and he suggested that standard processes within the European Union (EU) would be helpful. He also noted that competent NFPs in provider countries are essential, meaning that capacity building is urgently needed.

Dr. Stefan Hain, Alfred-Wegener-Institut, Helmholtz-Zentrum für Polar- und Meeresforschung (AWI)

Stefan Hain is the new contact person for the NP compliance at the AWI. He recently conducted a survey on NP awareness and relevance for the research at the institute. This survey showed that approximately 50 researchers at AWI conduct NP-relevant research on different types of resources (aquaculture, marine and terrestrial). Not all researchers were aware of the need to comply with the NP. Those working on “hard core” genetics are typically well informed but these people are in a minority group. Other researchers, e.g. who are doing research on markers and compounds and investigating how these are influenced by climate change, have much lower awareness levels. The NP is seen as an additional hurdle by these researchers. The institute is facing several challenges, e.g. how to communicate that basic researchers also have to comply with the ABS requirements and fulfill their due diligence obligations. There is sometimes confusion that research permits are not ABS documents. The institute is considering moving towards a more centralized approach to NP compliance. Consideration is also being given on how to check existing samples for compliance, and how to ensure the long term availability of the ABS documents associated with samples given the turnover in researchers. There is also a desire to do things efficiently, e.g. avoiding that all researchers from one institute contact the same NFPs with respect to one proposed research expedition. Dr. Hain also noted the need for reliable legal expertise on concrete questions.

Dr. Simone Cesarz, Deutsches Zentrum für integrative Biodiversitätsforschung (iDiv) Halle-Jena-Leipzig

Simone Cesarz reported on experience with ABS in a global soil project, IsBIO, which is investigating microbiological biodiversity in soil and specifically attempting to fill gaps in knowledge about diversity and function in soil ecosystems. The institute is working with 106 institutions from 37 countries around the world, focusing mainly on genetic information from fungi and bacteria. The main instrument which has been used to address ABS is an MTA. The partner institutions in the provider countries are responsible for assisting with obtaining the relevant documents. This has been an effective strategy in order to overcome local language barriers but it has made iDiv highly dependent upon the partners and the accuracy of the information provided. iDiv has also contacted NFPs directly. Challenges faced include contracts being provided in local languages. There are also political issues, which have complicated the process, e.g. Taiwan. There are also unclear situations, e.g. when obtaining material from third parties and what to do when NFPs do not answer.

⁴ In some cases, high level political support has been engaged in ABS processes, e.g. from the Ministry of Foreign Affairs.

Dr. Hilke Püschner, DSMZ

Hilke Püschner presented on how DSMZ became a registered collection and specifically the process by which the collection determined which samples required NP documentation. Dr. Püschner pointed out that the most important two questions are when and where the sample was collected. The answer to these questions determines whether the sample is outside the temporal scope of the NP and the EU ABS Regulation. It is also necessary to ask whether any ABS rules were in place in the country at the time of access.

There were a number of challenges during the process of becoming registered. Some samples did not state the country of origin. For samples with a very old sampling date (from the 1920s, for example), it was clear that these are outside of scope of the NP. Microbiologists often enter date that microorganisms are isolated from the sample but not date on which the sample is collected, which can also lead to confusion. By looking at the publication and deposit dates, DSMZ was able to determine, in some cases, that access to the sample occurred before the NP came into force. There were some “problematic samples” where further investigation had to be conducted. Depositors were contacted and asked to provide the NP documents. In the end, only two resources were removed from the entire collection. Dr. Püschner highlighted that there is no need to be scared of the process and recommended starting as soon as possible as this offers the best possible chance of reaching the depositors and obtaining the necessary documents. With respect to retroactive applications for permits, she noted that some NFPs view this very negatively.

DSMZ, as a registered collection, takes over the part of the user’s due diligence obligation, i.e. the collection obtains the relevant documents and checks them for NP conformity. This is becoming more attractive for users, making registration a competitive advantage. The collection also conducts in-house research so it is important that the researchers have access to NP conform material. All NP relevant information on the samples is provided in DSMZ’s catalogue.

The process to become registered started in 2016. In 2018, the collection was finally accepted into the register of registered collections (it was the first one). The process of becoming registered involved a lot of exchange with other parts of the institute, e.g. IT and the people working in the collection, but the process was “not as bad as expected”. In terms of resources, it took several days for several people to check whether the samples fell within scope of the NP or not.

Ongoing challenges include that depositors have never heard of the NP, although this is becoming less of a problem. CNAs in some provider countries still do not answer and the information available in the ABSCH is incomplete and cannot be relied upon. There are some “problem “countries, which put restrictions on the further distribution of microorganisms for scientific use. The number of new deposits at DSMZ has decreased as some depositors seek out collections with less strict requirements and those outside the scope of the NP. Nevertheless, DSMZ already has a number of NP relevant deposits, e.g. from Spain and France.

Discussion

In the discussion it was noted that an institution's reputation is a key issue, which needs to be taken very seriously.⁵

The fact that journals are starting to ask for evidence of NP compliance before accepting articles for publication was also raised. It was suggested that this may be a stronger argument for researchers to comply with ABS rules than the threat of possible sanctions. It was also noted that if an infringement is detected, the BfN can prevent researchers from publishing or sharing their results for either a set period or even indefinitely if no remedial action is taken. It was noted that journals can only enquire about permits etc. but have no right per se to see these documents. In response to such requests, one institute indicated they inform the journal that the necessary documents have been obtained and can be viewed by the German competent authority.

Breakout groups on experiences with ABS

Each of the three breakout groups was given three questions to discuss for 50 minutes.

- How do you deal with ABS? How do you solve problems?
- What helps you? What else would help you?
- What are the most important "lessons learned" from your experience?

The outputs of these discussions have been presented thematically and not according to the individual group. Concrete suggestions for the project have been addressed separately (see section 3.4).

Institutional approaches to ABS

NP compliance at the institutional level means taking processes into account on different levels e.g. sample management, database management.

A centralized approach is being introduced at GEOMAR, which will be coordinated from the import/customs office, i.e. a part of the institute which deals with various permits. In some institutions, dedicated NP officers, administration and/or legal staff provide support to researchers, who remain personally responsible for NP matters. Linking up ABS procedures with well established regulative procedures, e.g. customs, might be helpful for institutions.

⁵ From the public chat: Trust is especially important in ABS. Some provider countries follow the cases of access without authorisation very closely, especially where a commercially successful product was developed as a result, i.e. biopiracy. Even though there may be hundreds or thousands of accesses to genetic resources for non-commercial research, claims relating to commercial biopiracy get the most attention.

It is not clear how to approach universities that have not started to put NP measures in place. The Deutsche Forschungsgemeinschaft (DFG) is currently in process of developing a guideline for universities.

Finding funds to create new positions to support NP compliance remains a major challenge.

There are limitations to what the NP compliance officers (or responsible person) at the institution can do, i.e. they cannot monitor all of the researchers and the utilization at the institution. The question was also raised about responsibility and the extent to which the universities can place the responsibility on their employees.

NP compliance officers alone cannot create the pressure needed for compliance, making institutional support from “higher up” in management critical. Having a higher level of responsibility at the institutional level could be seen as a chance for getting institutions more involved in the issue. At the same time, experience at Kiel University has shown that it is helpful if individual researchers maintain some responsibility.

Some institutions are also looking into ways to work together on an inter-institutional basis, where their work overlaps in an organizational or thematic way. Heterogeneity of research institutions can pose a challenge to this approach.

A number of institutes expressed the need for legal advice. There are many concrete questions, which need to be addressed by different institutes. In some cases, in-house lawyers are already involved in NP compliance issues and a couple of institutes are looking for lawyers to take up these responsibilities.

ABS management

Document management is key for ABS, i.e. it needs to be clear which documents are linked to which sample and what the relevant conditions are. There is a lot of experience on ABS management, especially in the collections which can be shared, e.g. how to handle NP relevant samples in databanks.

There is high turnover of PhDs and researchers, which means that it is easy for institutions to lose oversight of samples and where the associated information is stored.

Old samples in storage can be problematic. People forget that the material may be reused years later and do not make provision for this. It needs to be clear that an additional or retroactive permit may be necessary to use this old material.

Sometimes unsolicited samples are sent to institutes. These are also problematic as they may not be accompanied by the required documents.

How to deal with commercially bought material also needs to be addressed by ABS management. The use of commercially available material, e.g. which is bought an aquarium or garden centre, represents a change of use and may therefore fall under the ABS EU Regulation.

One challenge for collections is that they are at the “end of the process”. Depositors may have to be asked to provide documents or to make contact with CNAs in order to get the documents retroactively.

Tools

Instruments that support NP compliance can be simple and easy to develop, e.g. a template for enquiries to NFPs, where researchers fill in the details.

Various tools have been developed at Kiel University, including a simple checklist used to support users with deciding on whether their research falls within the scope of the NP and EU ABS Regulation. This tool was developed with support from BfN.

The Nagoya Look-Up Service has been developed by the Max-Planck-Institut für Marine Mikrobiologie, Bremen (MPI). This tool is useful for newcomers and can inform them about the NP relevance of their sampling activities based on coordinates of the sampling site.⁶

Example documents, e.g. model clauses are a useful tool for researchers. There are various examples of model clauses available, e.g. in the ABSCH, on the DFG website etc. Although standard approaches can be helpful, differences in the circumstances of each case can make it difficult to apply them. Nevertheless, having a compendium of legal instruments could be useful for lawyers working on NP compliance at universities and research institutes. Some institutions have already developed their own standard material transfer agreement (MTA) for NP relevant material.⁷ Another consideration with respect to ABS contracts was also the question of responsibility and the creation of legal responsibilities, which needs to be decided by each institution.

Other possibilities for centralized support/approaches

More support could be provided by the DFG, e.g. with respect to a centralised translation service for ABS documents or the revision of contracts. It could also provide funds for researchers to initiate ABS processes before the project funding has been approved.

Funding bodies can help with awareness-raising by bringing applicants' attention to ABS requirements.

Other possibilities for more structural support might include central support desks nationwide, e.g. one help desk per federal state, which could help with model contracts or organizing the bundling of contract negotiations in the same provider countries. This could, however, be problematic from a legal perspective.

Newcomers to ABS

Newcomers have a difficult time getting an overview of the NP and what is required. Networking is seen as an important way of getting up to speed quickly and getting support.

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<https://academic.oup.com/database/article/doi/10.1093/database/baaa014/5818924?guestAccessKey=4704ef89-62ce-481a-b05c-8389adf28016>

⁷ From the public chat: In the formulation of MTAs, it is important to take into account that one does not necessarily know which specific genetic resources will be found at the time of sampling or that samples may be used for other research at a later stage. Contracts should be formulated in such a way as to cover all of these possibilities.

A four step approach was suggested for newcomers to ABS. First, they need adequate time for the process. Second, they need to inform themselves about the basics using available resources, e.g. the DFG guidelines, the BfN's website, the ABS Capacity Development Initiative's simply explained video etc. Third, it is useful to learn from people with experience in the provider countries, e.g. what was the process, what happened, what can be recommended etc.? Finally, if there are still special detailed questions about whether their research is "utilization" under the meaning of the EU ABS Regulation, users should go to BfN for advice.

Awareness-raising

Awareness-raising should not only focus on the problems caused by the NP as this can create defensive positions. Negative attitudes to ABS are unhelpful and they do not change the fact that researchers still have to fulfill their obligations. It is important that people who are doing awareness raising are equipped with solutions and tools for dealing with typical problems before reaching out to the target audience. It is not always the best approach to come with the messages about legal obligations and sanctions. Good arguments need to be provided about the relevance of ABS. Positive examples could help in this regard, e.g. by showing that ABS works and that it can be a quick/straightforward process. At the same time, positive cases are hard to find as people do not report them but they are "out there".

It is important that communication tools speak the language of target group. This may mean, for example, that presentations to different actors, even within the same institution, have to be adapted according to their respective roles (administration, researchers, lawyers etc.).

A number of researchers seem to be unaware that they do not have other rights when they are in provider countries and that they have to comply with local laws, irrespective of whether it is an NP country or not. This also needs to be communicated. Another key message is that ABS processes require time and patience.

It is possible to raise awareness among new employees by including a visit to the NP compliance officer during the "on-boarding" process.

Provider countries

A typical problem is that CNAs/NFPs do not answer. Experience has shown that writing to them in their language helps, i.e. they may respond faster.

One institute would like to build up infrastructure in a provider country to avoid the difficulties associated with exporting material to Germany. This would allow local staff to benefit from training and new infrastructure so that the analyses can be conducted locally, with only the data being provided to the German institute.

There are political issues that go beyond the NP and which cause uncertainty, such as war and disputed borders/territories. It is not clear in these cases to which authorities the users of genetic resources must go, e.g. to get PIC and MAT.

Discussion

Even if samples are not publicly available, e.g. like in public collections, the issue of final deposition and long-term accessibility of samples in combination with establishing good document management systems is still a challenge. GEOMAR, for example, currently has an IT management project and this will be tapped into as part of the centralization of the ABS process and document management.

It was noted that the different states in Germany also have rules about document management by public sector institutions and this also has implications for ABS document management.

Wrap up

Dirk Neumann, DNFS

The workshop was able to bring people together and help them to get to know each other, which is a good start for future exchange. The discussions showed that there are different levels that need to be considered. The challenges relate not only to provider countries, negotiations, language issues, and the need for legal advice etc. but there are a lot of questions about how to support the users within institutions in Germany. Overreaching questions, such as displaying positive examples and ways to take care of ABS document management etc. can be investigated further in the GNP HuB project.

Results of the workshop: Thursday, 18 June 2020

Recap day 1, outlook day 2

Dr. Kerstin Elbing, VBIO

Kerstin Elbing noted that the networking and exchange on day 1 of the workshop was a good beginning, even if some of the problems discussed are familiar to a number of participants. There are different types of challenges to be addressed on the provider side, such as language barriers, conducting negotiations, the capacities of CNAs etc. On the user side, other challenges include project and document management, obtaining legal advice etc. Dr. Elbing noted that different institutions are taking different approaches, i.e. leave the responsibility to the individual and provide some advisory vs. a more centralised approach. Some institutions are still at the beginning of the process of setting up institutional measures for NP compliance. The importance of having support from senior levels of management was noted. Institutions can draw upon existing experience in other areas, e.g. relating to information or permit management, to help with ABS. The usefulness of having a network and exchange

between the institutions was emphasised. Some open questions include how to support smaller working groups or chairs when they receive no support from their institution.

Awareness is key. It is not only about keeping the competent authority, the BfN, “happy” but the institutions must also understand the benefits of being compliant, e.g. avoiding reputation loss. Some concrete suggestions for awareness-raising included onboarding for the new employees. Also helping people to understand where to start when they are new to the topic is critical.

Dr. Elbing noted that the goal for day 2 was to look more closely at ABS information sources and tools and to think about what is still needed. The discussions were also to be used to talk about strategic approaches to communication, i.e. how to reach the target group and how to contribute to awareness-raising.

Impulse presentations on ABS information sources and tools

Dirk Neumann, DNFS

DNFS has already gained a lot of experience in conducting training seminars on ABS management. The NP often attracts a negative response from the participants and there is a common perception that the NP imposes a significant hurdle/burden on researchers. Documentation and sample management is, however, already an intrinsic part of scientific processes, e.g. obtaining research or collection permits when conducting field work abroad. Such practices are also the foundation of due diligence obligations, meaning that the burden or hurdle may not be as big as it seems. The question is how these processes can be adapted to include ABS and how to make sure that all working groups in an institution are following the process. Document management, quality control, maintenance, access, recording and digitalisation all play a long term role in making genetic resources permanently available for research. There are usually existing structures in place into which ABS can be integrated, e.g. shipping, import control etc.

The Consortium of European Taxonomic Facilities (CETAF) has a Code of Conduct and Best Practice, which was developed through a bottom up approach to help institutions with implementing ABS document management.⁸ The Best Practice part is a useful tool for conducting a self-evaluation that helps institutions to identify processes and issues at the institutional level.

An example of sample management was provided (German Barcoding Project), which involved amateur scientists and a number of different research institutes. A couple of additional columns were added to a standard excel sheet to manage ABS compliance.

⁸ <https://www.cetaf.org/services/natural-science-collections-and-access-and-benefit-sharing>

Monique Hölting, Zoologisches Forschungsmuseum Alexander Koenig (ZFMK)

ZFMK has its own ABS guidelines, which were developed according to the CETAF Guidelines. Monique Hölting, contact person for NP matters, noted that it can be a challenge to link all documentation with samples.

At the ZFMK, the user starts with the ABSCH and if no information is available on the national measures, the person writes to the NFP. Ms. Hölting is copied into the communication and once a final answer is provided by the NFP, Ms. Hölting places a record of it in the document management system. Any country specific information is also added to an intranet service on national ABS measures. This is a helpful resource as colleagues sometimes work in the same countries but do not know this and therefore they do not exchange information on their experiences. It was noted that resources like this are difficult to keep up to date.

Dr. Scarlett Sett, Kiel University

Scarlett Sett presented the various tools used at the Universität Kiel to ensure NP compliance. The university has developed a website for its researchers⁹, which provides information on the NP in both English and German. As many researchers are international, they do not necessarily speak German. All of the information is public. The aim of the website is to provide basic information which is formulated in easy to understand language. It is comprehensive enough to ensure there are no misunderstandings, but it is not too complicated in order to avoid overloading the website and confusing the users. The website outlines the process and the consequences of any infringements. A checklist is also provided to determine whether the proposed use of the material falls within the scope of the EU ABS Regulation. A special email address has been created for enquiries and this is also provided on the website.

A centralised account has also been set up at the Universität Kiel for the DECLARE NAGOYA IT system (DECLARE). Dr. Sett explained that each researcher is responsible for submitting their due diligence declaration but the university maintains an overview of all declarations submitted. At the university, it is the professors and not the PhD students or post-docs who are made responsible for this. The professors are expected to fill out the information in the declaration and they are provided with support by the NP compliance officer with this.

The university has a modified MTA for NP relevant material. This was developed together with the legal officer and technology transfer department.

Dr. Sett noted that it is often important to contact NFPs in the mother tongue where possible.

The position of the NP compliance officer is supported by the office of the university's president. This high level support at the university ensures that the researchers at the university take the topic seriously.

⁹ <https://www.uni-kiel.de/de/forschung/integritaet-ethik/nagoya-protokoll>

Elizabeth Karger, Leibniz-Institut-DSMZ

Elizabeth Karger provided a short overview of several websites that provide NP related information, including the ABSCH and the websites of the ABS Capacity Development Initiative (ABS Initiative), the UNDP-GEF Global ABS Project¹⁰, La Fondation pour la recherche sur la biodiversité (FRB), and the Learn Nagoya platform.¹¹ The ABSCH is a good resource with a lot of information but sometimes it may be overwhelming and not necessarily user friendly. The ABS Initiative has a library of resources, including studies, reports of past events, guidelines etc. but the signposting is not clear enough to make sure that visitors to the website know which resource is the most relevant for them. The UNDP-GEF Global website is good for showing activities and many positive cases. The Learn Nagoya platform also presents user cases and has a forum for questions. This forum, while a nice idea could be hard to monitor and there may be a danger that the information provided is not accurate or is misunderstood. Ms. Karger noted that there is no need to reinvent the wheel and it is possible to refer to useful resources but highlighted the importance of having clear and targeted communication in order for the project website to be effective.

Discussion

There are many websites addressing the NP but they are often too general. Answers to more specific questions also need to be provide, e.g. with respect to financing, coauthor ship etc.

There has been a lot of positive feedback on the Universität Kiel website. Since its launch, the enquiries received by the NP compliance officer have become less general and more concrete because the general information is covered by the website content. The website content took several months to develop and involved a lot of support from BfN.

The CETAF Code of Conduct has different parts, e.g. what to do in the field, self-evaluation etc. Implementation has to take place at different levels, including document and project management. It is sometimes difficult to change old processes and in some cases, a compromise has to be found so that there is as little change as possible.

The ABSCH is not always easy to navigate but it was noted that the Secretariat of the Convention on Biological Diversity (SCBD) is open to constructive feedback.

It was noted that ABS and NP are not necessarily one and the same, i.e. not everything that is ABS is relevant covered by the EU ABS Regulation. It was noted that researchers should always follow the rules

¹⁰ The project is funded by the Global Environment Facility (GEF) and implemented by the United Nations Development Program (UNDP)

¹¹ <https://absch.cbd.int/>; <http://www.abs-initiative.info/about-us/>; <https://abs-sustainabledevelopment.net/>; <https://www.fondationbiodiversite.fr/les-enjeux-de-la-biodiversite/biodiversite-et-reglementation/zoom-apa/>; <https://learnnagoya.com/>

of the provider countries although it was also suggested that in cases where resources are limited that some institutions may be forced to consider the NP relevant countries first.¹²

There are some groups in the research community who do not yet know that they are affected by the NP. Although users may not need to understand everything, they still need to know the basics and read the documents they are provided.

The question was raised as to how universities make the individual researchers responsible for NP due diligence. It was noted that both institutions and individuals have obligations and that institutions can not pass their responsibilities on to their staff. BfN is starting with the compliance checks in the academic sector in 2020, where they will start by looking into what the universities and institutions have done. It is not sufficient only to have document which says that the researchers are responsible. Awareness raising, implementation of relevant processes, provision of support also contributes towards the fulfillment of an institution's due diligence obligation. If the university or institutions has nothing, this will be regarded as not being diligent. At the same time, individuals retain some responsibility as they are directly using the material for research. If the university has been diligent but the user infringes the university's policy, only the individual person may be sanctioned.

There was also a question about the responsibility of people publishing a joint paper, i.e. are they also considered to be a user? BfN would look at this on a case by case basis to determine whether the person is only an author on paper or whether they have made a substantive contribution to the research.

Breakout Groups: Experience with ABS information sources and tools

Each of the three breakout groups was given the following questions to discuss for 50 minutes.

- *Which ABS information sources, tools, institutional policies, websites or cross-cutting methods do you use to fulfill your ABS obligations? What is missing or where is there room for improvement?*
- *How can we reach the target group and who can act as a multiplier?*
- *How can we possibly contribute to awareness-raising? And what should be our key messages?*

The outputs of these discussions have been presented thematically and not according to the individual group. Concrete suggestions for the project have been addressed separately (see section 3.4).

¹²From the public chat: National access laws must always be observed, irrespective of whether the provider country is a NP country or not. ABS starts with regulated access, i.e. with the conditions for access to material. It was further noted that it makes sense to take a holistic approach to biological material, e.g. water or soil samples can contain very different genetic resources, which are unknown at the time of sampling, or that samples may be reused in future. It was noted that it is important that ABS documents are formulated in such a way that takes this into account.

Websites presently used

The ABSCH is used by a number of people to find information about ABS measures individual countries. It is an “underestimated resource”, which also provides a lot of general information, e.g. model clauses, best practices, information from meetings etc. A goal of the SCBD is to provide courtesy copies of the various laws in English. The BfN website is also useful for getting information, e.g. the slides from previous lectures and the seminars. The EU Commission website on ABS is not used much but it also has useful resources like the EU Guidance Document.¹³ The new guidance document should be helpful and will also include a number of cases on “utilization”.¹⁴ The DFG website has some useful resources, e.g. guidelines and model clauses.

Reaching the target groups

Awareness-raising has to improve acceptance of ABS and the due diligence obligations among individual researchers. Alone, however, it is not sufficient. Structures must also be in place to provide support. Taking a service-oriented approach, in which researchers’ problems are central, can be an effective way to reach people. One challenge may be to reach third-party researchers who are linked to the research infrastructure in some way.

Experience indicates that people have the attitude that “ABS is a nice idea but does not work”. This is often based only on hearsay rather than personal experience, e.g. in the case of students. Communication has to address these attitudes. Teaching at university offers an opportunity to address NP compliance and students may be interested in this issue if they want to work abroad.

Awareness-raising activities may be offered on a voluntary basis or they may be made compulsory. If they are compulsory, there has to be high level support, e.g. from the head of the department or unit. Where the pressure comes from within the organization may impact upon the level of acceptance. Although some participants may be thankful for awareness-raising, others may be annoyed as it is irrelevant for them. Awareness-raising needs to be targeted in order to be well-received.

It is also important that awareness-raising is targeted at various levels of the institution. ABS is sometimes ignored by middle level management, e.g. by professors, but it is important that they are also involved. Getting support from the central administration of any institution is also important. Pressure to address NP compliance can come from the management level or it could potentially be bottom up, e.g. from PhD students.

Any awareness-raising activities have to show the consequences for both the institute and the individual. This may include the inability to publish or share results, loss of reputation or blacklisting as a

¹³ [https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:52016XC0827\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:52016XC0827(01)&from=EN)

¹⁴ From the Public Chat: The next version of the EU Guidance Document will provide further clarity on the subject of “yes or no use in the sense of the EU ABS Regulation”. The document is currently being coordinated between the different Directorate-Generals of the EU Commission. It will then be translated and published later this year (Autumn or Winter 2020).

result of biopiracy claims, having problems with export and import of material, and legal sanctions. Making researchers aware of this should not be used as a threat but it should underline the seriousness of the issue. Positive examples are also much needed to show that ABS works, rather than only focusing on negative consequences. These examples should be targeted, e.g. by providing information about what works in specific countries, the process etc. This may help to reduce apprehension associated with ABS.

Awareness-raising is conducted by the NP compliance officer at various institutions. For new employees, it is possible to have a mandatory item in their “on-boarding” form, i.e. they have to go to the responsible person at the beginning of their employment and they are informed about ABS and due diligence obligations.

Awareness-raising at conferences and symposia would be useful. This is planned as a project activity but due to the ongoing COVID-19 pandemic, nearly all events have been cancelled in 2020.

There is a need to reach out to "more specific" groups who may not necessarily know yet that they are affected by the NP, e.g. research on human diseases caused by pathogens.

Funding bodies can be important multipliers as researchers have a central point where information can be obtained.¹⁵

Communication

Linguistic simplification was identified as being an important issue. Typical acronyms, for example, may not have meaning in practice, e.g. prior informed consent (PIC) and mutually agreed terms (MAT).

Communication should not only be in written form. Different elements can be used including videos, podcasts, lectures online etc. The use of graphics can potentially reduce complexity and help users to understand NP compliance.

An important target group is also the cooperation partners in the provider countries, who are often responsible for collecting and exporting material. Effective communication with these partners was identified as an important issue, i.e. showing that there are positive returns for these partners, e.g. in terms of resources or capacity building. Unless the cooperation is attractive and valuable for these researchers, it will be difficult to ask for assistance with the ABS process, in which they see little benefit for themselves.

¹⁵ The DFG's application form has been updated and now contains a separate item on ABS (5.1.4). Explanatory notes on research projects on genetic resources (or related traditional knowledge) from abroad) is provided in the DFG's guidelines: http://www.dfg.de/formulare/54_01/54_01_de.pdf

Concrete suggestions for the GNP HuB project

General

- The project can be a voice for the research community.
- Funders should be involved, e.g. for awareness raising purposes.
- People should have the opportunity to contact the help desk.
- Capacity building among colleagues through various workshops is needed, especially for newcomers.
- The project should offer information sessions to the institutes via live video conferences, which saves costs and allows for questions to be asked directly.
- A workshop should be organized on developing institutional policies and implementation of ABS at the administrative level.

Network

- Support further networking and exchange is needed.
- A mailing list for future updates on the project should be created.
- The network should be internal and done via email, i.e. the help desk should differentiate between internal communication within the network and the information that is made available to the public.
- There is a need for regular but informal exchanges, e.g. on 1-2 frequently asked questions or ABS in a specific country.

The project website

- There is a lot of material available and it is not necessary to reinvent the wheel.
- It is fine for the website to be built up step by step. It does not have to be perfect from the outset. The sooner the site is online the better and the sooner the network can contribute content.
- Use of modern media is desirable, e.g. podcasts. For each podcast, it may be possible to invite different guests with a different thematic focuses.
- Graphical representations could be helpful.
- Presentations could be recorded and provided on the website.
- The Nagoya Look-Up Tool¹⁶ could be integrated into the website.
- The project website should be used to display positive ABS examples.
- A collection of practical experience in different countries would help, e.g. one page with a country profile and experience in different countries, including tips and challenges. A "private"

¹⁶<https://academic.oup.com/database/article/doi/10.1093/database/baaa014/5818924?guestAccessKey=4704ef89-62ce-481a-b05c-8389adf28016>

or protected database/country catalogue with concrete experiences in various countries e.g. could be developed. It would be helpful to know who has already contacted a NFP and what their experiences were in the provider country. As an alternative, a "contact database" could be developed. This would need to be kept up-to-date.

- Examples of cases from "no problem at all" through to "catastrophic" may be useful. Cases could be communicated along a timeline.
- A "Handbook" could be developed for collections on how to process samples in a NP conform way, e.g. drawing on DSMZ's experience.
- A collection of cases demonstrating what utilization is would be helpful.
- The use of an internal log-in area may scare some people off. It may be more attractive for people to be able to access information anonymously.
- It should be possible to query the website with keywords.
- It may be possible to differentiate between different thematic areas, e.g. marine area, terrestrial etc.
- Frequently asked questions (FAQ), e.g. on dealing with problems, which steps to take etc. should be developed. These also need to address common questions.
- An overview of all relevant NP and ABS websites may be useful.
- An overview of the process, i.e. a workflow, needs to be provided.
- A collection of successful communication strategies would be useful, including how to best communicate the topic and how to reach different actors.
- Members of the network could link to project website and use the logo or QR code. The project website can use the members' logos to show who is actively involved on ABS.
- Possible key messages may be:
 - „Don't wait! Start with ABS before your research proposal is approved!
 - ABS – "deal with it! The authorities are checking compliance whether you like it or not.
 - "You already have done a lot of good preliminary work – ABS - it's not that much more";
 - "ABS works!"

Discussion

Further exchange will be key to the success of the GNP HuB project and establishment of the network. The workshop was very helpful, especially for the less experienced participants. Even though it was a video conference, it enabled a number of people to meet each other for the first time.

Wrap up

Dr. Amber Hartman Scholz, DSMZ

Amber Scholz wrapped up the workshop. She noted that workshop participants had asked that the project be service-oriented and speak both for and with the scientific community. The workshop provided a good overview of the information and tools used. An open question is on awareness-raising and how the project can contribute to this. Dr. Scholz noted that the COVID-19 pandemic has and will continue to impact the project as many conferences have been cancelled, which made outreach to the research community challenging. She suggested it may be better to focus the project's resources on building up a network first which can be done virtually. There were many useful ideas that came up in the workshop, e.g. the idea of having informal discussions on various topics, the use of podcasts, development of information on compliance management, and provision of answers to FAQs etc. For the website, there is an unresolved question on whether a log-in area should be created or not. Dr. Scholz repeated the need to help the "newcomers" to the topic and noted that a video will be developed that will outline the obligations of researchers and the importance of NP compliance. It remains unclear why there is so little awareness amongst some groups when so much information on the NP is already available. Dr. Scholz noted that the "door is now open" and that people can reach out to the project coordinator, Elizabeth Karger. Through the process of building up the network and continued exchange, it will be possible to gain further input on the needs of the research community around ABS and take this into account in the project.

Annex

Agenda

1. Workshop im Rahmen des Projektes „Nagoya Protokoll: Unterstützende Beratungsstelle für den Sektor “Akademische Forschung” (UBer)“

Agenda

Mittwoch den 17. und Donnerstag den 18. Juni 2020, jeweils von 9.00 bis 12.00 Uhr (als Videokonferenz)

Mittwoch, den 17. Juni 2020

8.45-9.00	<i>Technische Anleitung (bitte einloggen und testen, ob unsere Online-Plattform bei Ihnen funktioniert)</i>
9.00-9.05	Willkommen und Überblick <ul style="list-style-type: none">• <i>Elizabeth Karger, DSMZ</i>
9.05-9.25	Vorstellungsrunde <ul style="list-style-type: none">• <i>Wo arbeiten Sie? Was ist ihre Rolle im ABS/Nagoya Kontext?</i>• <i>Mit welchen Bereitstellerländern haben Sie bereits einen ABS-Prozess abgewickelt?</i>• <i>Wie bewerten Sie ihre Erfahrungen mit ABS– gut, schlecht oder irgendwo dazwischen?</i>
9.25-9.40	ABS Compliance Challenges (Präsentation und Q&A) <ul style="list-style-type: none">• <i>Thomas Greiber, Bundesamt für Naturschutz</i>
9.40-9.55	Einführung in das UBer-Projekt (Präsentation und Q&A) <ul style="list-style-type: none">• <i>Amber Scholz und Elizabeth Karger, DSMZ</i>
9.50-10.30	Erfahrungen mit ABS-Prozessen (kurze Impulsvorträge und Q&A) <ul style="list-style-type: none">• <i>Jörg Süling, , GEOMAR Helmholtz-Zentrum für Ozeanforschung Kiel</i>• <i>Stephan Hain, Alfred-Wegener-Institut, Helmholtz-Zentrum für Polar- und Meeresforschung</i>• <i>Simone Cesarz, Deutsches Zentrum für integrative Biodiversitätsforschung (iDiv) Halle-Jena-Leipzig</i>• <i>Hilke Püschner, DSMZ</i>
10.30-10.40	Pause
10.40-11.50	Erfahrungen mit ABS-Prozessen <ul style="list-style-type: none">• <i>Breakout-Gruppen (drei Gruppen)</i>• <i>Diskussion im Plenum</i>
11.50-12.00	Wrap up

- *Dirk Neumann, das Konsortium der Deutschen Naturwissenschaftlichen Sammlungen (DNFS)*

Donnerstag, den 18. Juni 2020

8.45-9.00	<i>Technische Anleitung (bitte einloggen und testen, ob unsere Online-Plattform bei Ihnen funktioniert)</i>
9.00-9.10	Rückblick auf den ersten Tag, Überblick Tag 2 <ul style="list-style-type: none"> • <i>Kerstin Elbing, Verband Biologie, Biowissenschaften und Biomedizin in Deutschland (VBIO)</i>
9.10-9.40	Erfahrung mit ABS Informationsquellen und Werkzeugen (Impulsvorträge und Q&A) <ul style="list-style-type: none"> • <i>Scarlett Sett, Universität Kiel</i> • <i>Dirk Neumann, DNFS</i> • <i>Monique Hölting, Zoologisches Forschungsmuseum Alexander Koenig</i> • <i>Elizabeth Karger, DSMZ</i>
9.40-10.30	Erfahrung mit ABS Informationsquellen und Werkzeugen <ul style="list-style-type: none"> • <i>Breakout-Gruppen (drei Gruppen)</i>
10.30-10.40	Pause
10.40-11.05	ABS Informationsquellen und Werkzeugen (Fortsetzung) <ul style="list-style-type: none"> • <i>Diskussion im Plenum</i>
11.05-11.45	Kommunikationsansätze zum Projekt <ul style="list-style-type: none"> • <i>Diskussion im Plenum</i>
11.45-12.00	Wrap-up <ul style="list-style-type: none"> • <i>Amber Scholz, DSMZ</i>