

REPORT

3rd GNP HuB Network Meeting (3. Stammtisch)

25 March 2021, 10:00-12:00 (online meeting)

On 25 March 2021, the third regular online meeting of the GNP HuB Network, i.e. the “Stammtisch”, took place. This time, the focus was on dealing with practical ABS challenges.

Quick Project Update

To start with, a brief project update was provided by the project manager, Elizabeth Karger. In summary:

- The website went online on 23 December 2021 and it has already had quite a lot of visitors. More content will be continually added over the coming months. The website has information and different tools, including an infographic developed by the GNP HuB project to help researchers work out whether ABS and compliance is relevant for them. A checklist is also being developed, which will be published soon and which should help researchers prepare for the ABS process.
- The help desk has already received a number of enquiries in 2021.
- Recently, a “lawyers circle” within the network was held on the topic of contract clauses.
- A number of online information sessions have been held by the GNP HuB. If institutions are interested in having a session for their institution, they should contact the project manager.
- In April, the GNP HuB is organizing a “Nagoya Protocol for newbies” event together with the EVA Global project. This event will be open for anyone to participate.
- Participants were reminded about the poster challenge and were asked to send photos of GNP HuB posters hanging up at their respective institutions.

Practical ABS challenges - Impulse presentations

Four short impulse presentations were made about experiences with ABS in different countries (Kenya, Cameroon, Senegal and Vietnam), focusing on the challenges and how these were dealt with.

Katie Meinhold of the Rhine-Waal University of Applied Sciences talked about the “Baofood” project and ABS in **Kenya**. The researchers were not aware of ABS from the outset of their project, meaning that they only started the process after they had already received their research grant and the project had officially started. The whole ABS process took about two years, meaning that the project had to be extended (no-cost extension). Transparent and early communication with the funding agency about the potential delay and the reasons for it was helpful. During the ABS process, it was difficult for the researchers to understand which agency or department was responsible since

ultimately, different Kenyan government authorities and local communities were involved. The ABS documents had to be reviewed and adapted several times. The legal department of the university was involved in this process but it was also “new territory” for them. It was challenging for the researchers to clearly communicate the non-commercial nature of the project and the benefits that could be shared. Lessons learned from this experience include starting the ABS process as early as possible (and well before the project start) and to ask for help when needed, for example, from local partners, the legal department of the institution, or organizations such as GIZ with ABS experience in Kenya.

Next, Silke Ruppel of Leibniz Institut für Gemüse- und Zierpflanzenbau and Christopher Ngosong of University Buea talked about a project in **Cameroon** that started in September 2020. They were already aware of ABS and started with the process immediately after submitting their project proposal, which was one year before the proposed project start date. The project partner in Cameroon took on most of the responsibility for the process, communicating with the authorities and organizing the necessary documents. It was necessary for this person to travel and meet with the responsible authorities on several occasions. Overall, the process went smoothly but the partner in Cameroon invested a lot of time and energy to make it happen. Starting early with ABS process was key. The ABS permit is only valid for one year so the process will have to be repeated during the course of the project.

Ute Schröder of the Max Rubner-Institut (MRI), Federal Research Institute of Nutrition and Food, spoke about ABS in **Vietnam**. First contact with the Vietnamese focal point was in June 2019 and the ABS process is still on-going. The German institute must have a Vietnamese cooperation partner as a pre-condition of obtaining an ABS permit. A cooperation agreement was sought with a Vietnamese laboratory but it took some time to formulate this agreement as the Vietnamese laboratory is not a direct partner in the funded project. The Vietnamese laboratory saw little advantages for itself compared to the effort involved in collecting reference material. Another challenge was that the responsible person at the Vietnamese authority changed a couple of times, which led to some delays in their replies. Some documents had to be translated into Vietnamese and the local Vietnamese partner is also required to provide a certificate to support the ABS application. Lessons learned include starting the ABS process as early as possible, clarifying upfront which documents are needed (including any translations), and having a supportive cooperation partner in the provider country. It was also suggested that if the ABS is taking too long, researchers might consider looking for alternative partner countries (depending on the project).

Jan Dierking of GEOMAR Helmholtz Centre for Ocean Research Kiel talked about an upcoming project in **Senegal**. All communication with the Senegalese Focal point was only in French and there were several substantial delays in replies. The Senegalese project partner was able to take on responsibility for the communication with the national authorities and to make some in person visits. The application form was not available online and it took a number of months until the researchers received this but it has now been completed and will be submitted shortly. At the same time, despite of repeated requests, the Focal point did not provide the accompanying template for the benefit-sharing agreement (listed as mandatory in the application form). The researchers involved are still unsure about how to cover all of the project partners and possible future uses in the current process (if possible). Lessons from the application procedure so far are to start as early as possible to account for the lengthy process and that without the involvement of a local partner progress would have been substantially slower than it has been.

Discussion

In the discussion, it was mentioned that some funding organizations have started to alert researchers to the possibility that ABS could/does apply early in the funding process so that researchers are aware of the issue and can start taking care of it before funding is acquired.

It was noted that there are legal language barriers, i.e. it is difficult to deal with legal texts in foreign languages or also translations. It was suggested that, in general, having examples of agreements and templates are informative and helpful.

Breakout Groups

After the impulse presentations, the Stammtisch participants had the chance to exchange on practical ABS challenges and lessons learned in smaller breakout groups. Below is a summary of the results of those discussions.

Key challenges during the project preparation phase and first contact with provider country

Challenge: Incomplete, out of date or no information about ABS/contact details in the ABS Clearing House (ABSCH).

Possible approaches to deal with this:

- Look for alternative information sources (e.g. websites of national authorities, factsheets etc.)
- Contact the Competent Authority in your own country, e.g. the German Federal Agency for Nature Conservation in Germany. These authorities often have information about ABS or may be able support your enquiries.
- Notify the ABSCH and/or your own Competent Authority if information in the ABSCH is inaccurate or unhelpful so that they can inform authorities in the respective countries.
- Engage personal contacts or local collaboration partners in the provider country and ask them to make enquires on your behalf.

Challenge: No response from a national focal point or long waiting times between replies.

Possible approaches to deal with this:

- Start early with contacting national authorities about ABS laws and procedures, i.e. long before the project starts in order to buffer any delays.
- Use the local language in communications with the authority (if possible).
- Ask local collaboration partners to make enquiries on your behalf. They may find it easier to engage with the local authorities and are not restricted by language barriers etc.
- Send friendly and respectful reminders.
- Look for other potential contact persons (e.g. on ministry websites).
- Make records of your attempts. If you try to contact the authorities at least three times over the course of three months with at least four weeks between each enquiry and you have not received a response, you might be considered to have exercised due diligence in Germany and can move forward with your research. But, this is a risk! If more information becomes

available at a later stage that ABS applies, you will have to stop your research and get the relevant ABS documentation. Also, simply exercising due diligence does not mean that you are compliant with the national legislation of the provider country and you may be sanctioned for any non-compliance.

Challenge: Not having support in the provider country

Possible approaches to deal with this:

- Find a local institution that can oversee the research and act as a contact point/ offer support services, even if it is not a scientific collaborator.
- Find a scientific collaborator in the country who may be more invested in supporting the process, e.g. because they will benefit from the collaboration. Even for research cruises, an observer on ship from that country could be a helpful partner.
- If establishing a new existing collaboration, start early with the negotiations. It may take some time to establish a collaboration agreement and if this is a pre-condition for applying for an ABS permit, it can lead to long delays.
- Even for a motivated partner, the ABS process requires an investment of time and resources. It is therefore important to take the costs of their engagement into account and to compensate these if necessary (e.g. travel costs). The benefits of supporting ABS and making the collaboration possible (e.g. benefits of collaboration, sharing of data, training, transfer of technology etc.) should be clearly communicated.

Key challenges during the ABS process (negotiation, application for permits etc.)

Challenge: Communicating non-monetary benefit-sharing.

Possible approaches to deal with this:

- It is important that providers understand the non-commercial nature of research. This must be clearly communicated.
- When negotiating with the national authorities, researchers should be very clear about which non-monetary benefits can be shared, especially emphasizing the relevance and utility of these benefits for the provider country and local researchers.

Challenge: Lack of experience with formal documentation, including benefit-sharing agreements (contracts)

Possible approaches to deal with this:

- Researchers may not know how to best formulate their ABS documents, including contracts (benefit-sharing agreements). Use of model agreements and clauses may be helpful.
- Model clauses developed by funding bodies and professional associations usually include useful explanations about the purpose of the clauses, what needs to be considered etc. and can be a helpful resource, even if these clauses are not used directly as the basis for a benefit-sharing agreement.
- Researchers should ask the national authorities whether a model agreement is used in that provider country and if so, use this as the basis for negotiations before proposing an alternative agreement.

- Many people have never seen an ABS permit or benefit-sharing agreement. Templates/examples are not widely shared. Sharing examples of such documents within or between institutions may be helpful, although there is some caution needed due to confidentiality and other legal considerations.

Challenge: In-house legal departments at academic research institutions do not always have the resources (time or capacity) or the expertise to deal with ABS

Possible approaches to deal with this:

- Involve the institutional lawyers in the HuB's lawyers' circle.
- Share templates and examples of documents with the institutional lawyers within an institution.
- Obtain external legal advice.
- Share information, forms etc. informally among institutions and the HuB network members.

Key challenges after the ABS process

Challenge: Using material again in future, deposition etc. and wanting to avoid repeating time-consuming ABS processes

Possible approaches to deal with this:

- Researchers can explore options with the provider to allow future use of the material in the existing ABS documentation. Providers might be concerned about future use of material and publication of other data, e.g. that goes beyond initial taxonomic identification. Transparency with the provider about what is possible/intended in current and possible future research is essential. It may be necessary to think about ways to involve the provider in any future research. In some countries, there are restrictions, e.g. they may require culture collections to be held locally and not abroad, which make future research not possible without reapplying for an ABS permit.

Key challenges in German academic institutions

Challenge: Differing levels of awareness about the Nagoya Protocol or even a complete lack thereof in German academic research institutions.

Possible approaches to deal with this:

- Ongoing awareness-raising is necessary.

Challenge: There are often no supporting structures (e.g. contact person or compliance officer) in academic research institutions, meaning researchers feel "left alone" and need to actively search for help.

Possible approaches to deal with this:

- Management must get behind compliance and promote its importance.

- More centralized solutions may be needed, e.g. providing a contact point for information, modifying databases to account for ABS documentation and workflows to ensure compliance with due diligence obligations.
- Participation in the GNP HuB network and exchange among actors is a useful source of ideas and information for institutional approaches.

Summary and Outlook

While there are a number of practical challenges posed by ABS, there are ways to approach these challenges, to deal with them and move processes forward.

Some key messages from this meeting were the importance of starting early with ABS, asking local partners to get involved in the process and to support it, as well as the need for ongoing informal exchange of information, including within and between institutions.