International Chamber of Commerce
Knowledge Solutions Department

TOWARDS A NEW IMPLEMENTATION STRATEGY FOR ACCESS AND BENEFIT SHARING

POLICY STATEMENT

Key messages:

1. Review the impact of current ABS legislation and implementation mechanisms on scientific research and collaboration, and on development and production.
2. Design a future ABS strategy that optimises value creation from R&D, recognising the value created by different aspects of the research and innovation process.
3. Take a broad approach to resource mobilisation for biodiversity conservation, not only relying on ABS monetary benefit sharing.
4. Properly assess the workability and impact of any proposals to change or expand the ABS system before considering adoption.
5. The political imperative to reach an agreement should not be at the expense of research and innovation.

Doc.no.450-1123
5 October 2020

The Convention on Biological Diversity (CBD) is at a critical juncture as it prepares to adopt a global biodiversity strategy for the next decades. ICC embraces the need to address continuing global biodiversity loss, and fully supports an ambitious and effective post-2020 biodiversity strategy that draws on and supports scientific research and innovation.[1] The Post-2020 Global Biodiversity Framework (Post-2020 Framework) should also raise awareness of the interdependency of people and nature within and beyond national borders, foster broad multi-stakeholder participation, encourage economic and financial incentives to support the mainstreaming of biodiversity, and support and enable strong commitments to its implementation. To ensure a holistic approach, alignment should be ensured with other related UN conventions and the Sustainable Development Goals (SDGs).

Reviewing ABS implementation to date

The discussions around the Post-2020 Framework – together with the evolution of the research and innovation landscape, and experience acquired with the Nagoya Protocol and national access and benefit sharing (ABS) systems over recent years – makes this an opportune moment to also review how effective ABS implementation has been to date in achieving its goals and those of the CBD as a whole. ABS has an impact in many areas of public policy and should be considered in the larger context of policies relating to biodiversity conservation, science, innovation and the promotion of the SDGs.

Experience in companies and organisations of all sizes over the last few years indicates that many of the regulations and processes currently in place to implement ABS in different jurisdictions have a serious, negative impact on scientific research and collaboration, and on development and production. Current ABS mechanisms do not provide the legal certainty and clarity necessary for use and exchange of genetic resources, with the result that businesses prefer to seek alternative materials. The system also requires substantial human and financial resources – from governments, as well as public and private sector users – to negotiate, administer and navigate multiple ABS discussions and regimes, so that transaction costs often outweigh the benefits. There are therefore strong indications that the current implementation of ABS is not adapted to achieving its stated goals and those of the other CBD pillars and the SDGs, and is hindering rather than supporting the process of value creation from genetic resources.

Expectations of ABS

Many different expectations have been expressed as to the nature of the value that Parties wish to create from their genetic resources, and the desired goals of ABS. These expectations include biodiversity conservation and sustainable use, including its financing, and socio-economic development, notably through building local research and technological capacity.

Divergence between expectations and reality has resulted in general frustration on the part of governments, users and all other stakeholders. This in turn has unfortunately worked against the international multi-stakeholder collaboration needed to tackle the immense challenge of supporting and preserving biodiversity.

While ABS can contribute to reaching some of the desired goals, these cannot be met by ABS alone but require a holistic approach drawing on a variety of different mechanisms and initiatives.

[1] ICC statement “Business Views on The Post-2020 Global Biodiversity Framework” at https://iccwbo.org/publication/icc-policy-statement-post-2020-biodiversity-framework/.

A holistic approach to financing biodiversity conservation

ICC supports the underlying rationale of ABS of fairness and equity in the sharing of benefits from genetic resources. Monetary benefit sharing from ABS mechanisms, however, cannot in itself be relied upon to be the principal source of funding for biodiversity conservation. Based on experience to date with existing benefit-sharing agreements, monetary benefit sharing from ABS can be expected to raise only a fraction of the funds necessary for biodiversity conservation, even if benefit-sharing obligations are expanded further.

ICC believes that a broader approach to resource mobilisation is necessary, and that additional or other means of financing must be further explored to reach the goals of the CBD.[2] The use of financing mechanisms as policy tools to incentivise sustainable use and biodiversity conservation, as part of efforts to mainstream biodiversity, should also be considered. Using incentives to steer behaviour away from activities that damage biodiversity, so as to encourage a change towards more sustainable uses and practices beneficial for biodiversity will reduce costs necessary to restore biodiversity.

Creation of value through research and development with genetic resources

The implementation mechanisms and discussions on ABS to date have focused mainly on monetary benefits from the commercial products resulting from R&D on genetic resources. However, other aspects of the research and innovation process can also contribute a great deal of value to the goals of the Parties of the CBD and the Nagoya Protocol.

Research using genetic resources contributes valuable knowledge, which is fundamental to developing strategies for biodiversity conservation. Much of the baseline data underlying indicators to monitor progress towards conservation targets rely on research using genetic resources. Research and development using genetic resources also makes valuable contributions towards achieving many of the SDGs through the development of innovative products and nature-based solutions to global challenges such as climate change, public health, environmental protection and food security.[3] Research on genetic resources in itself can be considered to be a form of sustainable use of biodiversity, as research activity does not normally damage biodiversity but rather creates value for society.

An adjustment in mindset to recognise that research is an essential prerequisite for the sustainable use of biodiversity is crucial to ensure that policies at international and national level help fulfil the potential of research and innovation to create significant value for society and individual countries.

Designing a future ABS strategy that supports value creation and scientific capacity building

The success of ABS will rely in large part on its ability to create value for provider countries, users, and society as a whole through the research and development process. An ABS strategy going forward should be designed to support research and development and to be compatible with principles of open science and data availability, which are increasingly seen as being instrumental for maximising societal benefits. At the same time, such a future strategy should recognise principles that incentivise innovation.

The principles of open science and data availability also play an important role in facilitating international research collaboration and information exchange, within and between the public and private sectors. Such collaboration plays an important role in scientific capacity building and helps work towards more equitable and inclusive biodiversity-related innovation and research. Maintaining

[2] See e.g. Studies referred to in documents CBD/SBI/3/5, 3/5Add1-Add3.
[3] ICC statement on “COVID-19: Lessons for international research collaboration and information exchange” https://iccwbo.org/publication/covid-19-lessons-for-international-research-collaboration-and-information-exchange/.

open access to international genetic resources sequence databases, and developing local skills and infrastructure necessary to use these, is also important for building up scientific research capacity in countries in different regions.

Proposals for moving forward

To facilitate convergence on expectations, ICC encourages CBD Parties to reflect on the nature of the value that they aim to create from their genetic resources – some of the different forms of value that can be created from genetic resources have been outlined above. This would help to identify, based on experience to date, the most effective solutions to create and share that value fairly and equitably, as well as to channel resources – increasingly scarce in the current health and economic context – towards these priorities.

ICC recommends undertaking a thorough review of the impact of current ABS legislation and implementation mechanisms on the creation of value – in the broad sense described above. This would help provide a factual basis for developing an ABS strategy moving forward that optimises value creation from genetic resources for all stakeholders. ICC cautions against any proposals to change or expand the ABS system, in a way that could exacerbate the already considerable existing challenges, without a proper assessment as to their workability and impact.[4]

The success of the negotiations on the Post-2020 Framework should be defined by the effectiveness of the mechanisms and policies agreed in achieving all three objectives of the CBD and by the value they contribute to society as a whole. The political imperative to reach an agreement should not be at the expense of research and innovation, which benefits all stakeholders and is essential to the achievement of all three CBD objectives as well as the SDGs.

ICC stands ready to further contribute to the discussions on the role of ABS going forward, and to help identify the most effective solutions to achieve the ultimate aims of ABS as well as of the other CBD goals of conservation and sustainable use of biodiversity.

[4] ICC, together with other scientific and business organisations, has already pointed out the serious risks for research of imposing ABS obligations on digital sequence information (DSI) – https://iccwbo.org/publication/promoting-sustainable-use-conservation-biodiversity-open-exchange-digital-sequence-information/.

INTERNATIONAL CHAMBER OF COMMERCE
The world business organization

About The International Chamber of Commerce (ICC)

The International Chamber of Commerce (ICC) is the institutional representative of more than 45 million companies in over 100 countries. ICC's core mission is to make business work for everyone, every day, everywhere. Through a unique mix of advocacy, solutions and standard setting, we promote international trade, responsible business conduct and a global approach to regulation, in addition to providing market-leading dispute resolution services. Our members include many of the world's leading companies, SMEs, business associations and local chambers of commerce.

www.iccwbo.org

Follow us on Twitter: @iccwbo

INTERNATIONAL CHAMBER OF COMMERCE
33-43 avenue du Président Wilson, 75116 Paris, France
T +33 (0)1 49 53 28 28 **F** +33 (0)1 49 53 28 59
E icc@iccwbo.org www.iccwbo.org