

The Access and Benefit Sharing Mechanism – with focus on NTFP



*potential for local
and national economies*



Suhel al-Janabi

ABS Capacity Development Initiative (for Africa)

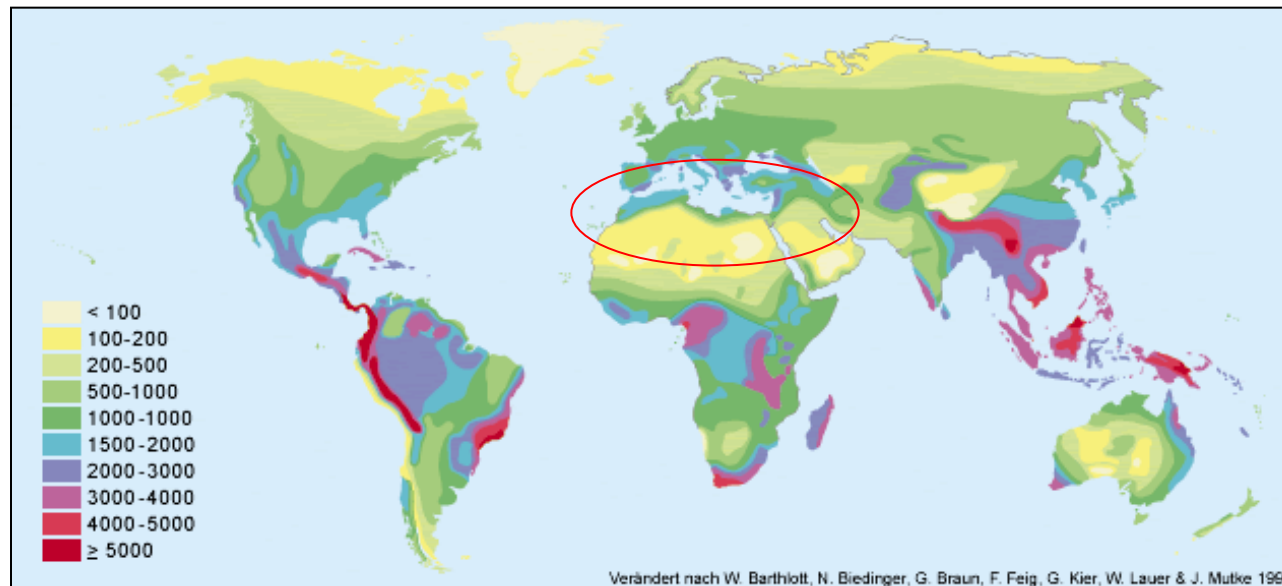
Co-manager

Overview of the presentation

- CBD and the ABS / APA concept
- ABS in practice – an NTFP case from Samoa
- The Nagoya protocol on ABS – what's at stake
- Argan - a Moroccan NTFP with ABS potential
- Outlook



Biological / Genetic resources - a tremendous potential under threat



Facts:

- only approx. 2 of 30 Mio species known
- ~ 26.000 species / annum extinct
- hotspots: Developing Countries (80 %)

-> not only an “altruistic” problem for nature conservationists but also of major impact for sustainable development in DC and IC

SPANA
جمعية الرافق بالحيوان والنباتات
على التراب
SOCIÉTÉ ANONYME DES ANIMAUX ET
DE LA NATURE

غابة سيدي بوغابة : آخر شاهد على النباتات الطبيعية

LA FORÊT DE SIDI BOU GHABA : DERNIER TÉMOIN D'UNE VÉGÉTATION NATURELLE

بالإضافة إلى تنوعها البيولوجي، فغابة محمية سيدي بوغابة تعد آخر شاهد على الغابة التي كانت تغطي قديما مساحات شاسعة من الساحل الأطلسي بالمغرب.
En plus de la richesse de sa biodiversité, la réserve de Sidi Bou Ghaba renferme les derniers témoins de la forêt qui couvrait autrefois une grande partie de la côte atlantique du Maroc.

الرموز	النباتات
1	البلوط
2	القيقب
3	القيقب
4	القيقب
5	القيقب
6	القيقب
7	القيقب
8	القيقب
9	القيقب
10	القيقب

كل نباتات الموقع محمية قانونيا
Toutes les plantes sont légalement protégées

الجمعية المغربية للرفق بالحيوان والنباتات على التراب
SOCIÉTÉ ANONYME DES ANIMAUX ET DE LA NATURE

Focus: Medicinal Plants, Derivatives (Phytopharmaceuticals)

- World market: > US \$ 60 billion
- US, EU, Japan Imports: > US \$ 450 million (1999)
- Worldwide sale of medicinal plants: > US \$ 18 billion (2000)
- European market of medicinal / aromatic plants: > 2000 species (2004)
- Share of pharmaceutical products based on PGR: ~ 70 – 80 %



Source: UNCTAD

-> trade off / benefits for “provider-countries” of GR are generally neither legally regulated (nationally and internationally) nor realized

Convention on Biological Diversity (CBD)

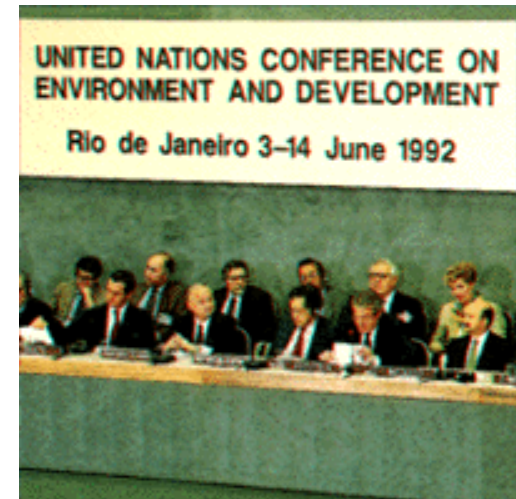
First signed 1992 during UNCED in Rio de Janeiro

Since then 193 Parties (192 states and the EC)

Integrates for the first time environmental
and development issues

Three objectives of equal standing:

- Conservation of biological diversity
- Sustainable use of its components
- Fair and equitable sharing of benefits arising from the utilization of genetic resources



Article 1 CDB

Conservation of biological diversity	Sustainable use of it's components	Fair and equitable sharing of benefits arising from the utilization of genetic resources
		by means of
Facilitated access to genetic ressources	Technology - and Know how – transfer	Adequate financing : <ul style="list-style-type: none">• upfront• milestone• royalties



ABS – the idea

- as an (economic) incentive to practise conservation and sustainable use of biological diversity *first TEBB approach ?*
- facilitating access to GR
- equitable share in the profits and technological progress from the use of genetic resources and associated *traditional knowledge* incl. transfer of technology and know-how
- and thus to provide a benefit in return for conserving biological resources in situ

Core: Art. 15 CDB: MAT, PIC

Benefit sharing: Art. 15.7, 16, 19 (TT) and 8 j

Indigenous people and local communities: 8j



Article 15 of the CBD

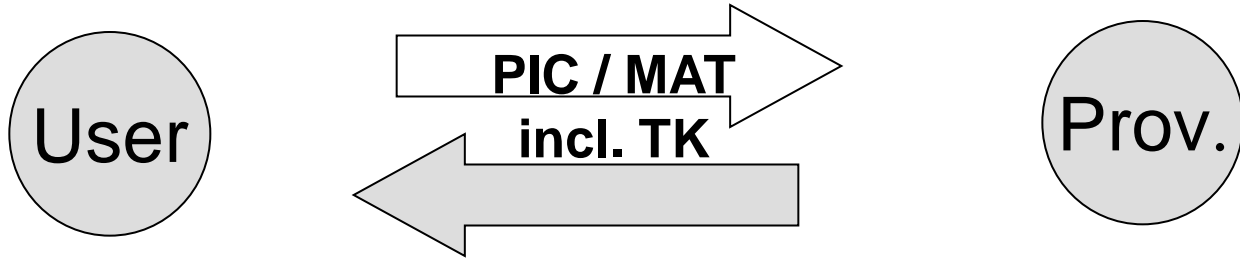
- **Sovereign rights of States** over their natural resources
- Parties to **facilitate access to genetic resources for environmentally sound purposes**
- Access subject to **prior informed consent PIC / CPCC** (*consentement préalable en connaissance de cause*) and granted on **mutually agreed terms MAT/ CCCA** (*conditions convenues d'un commun accord*)
- Parties to take measures to **share benefits** from the utilization of genetic resources, on MAT





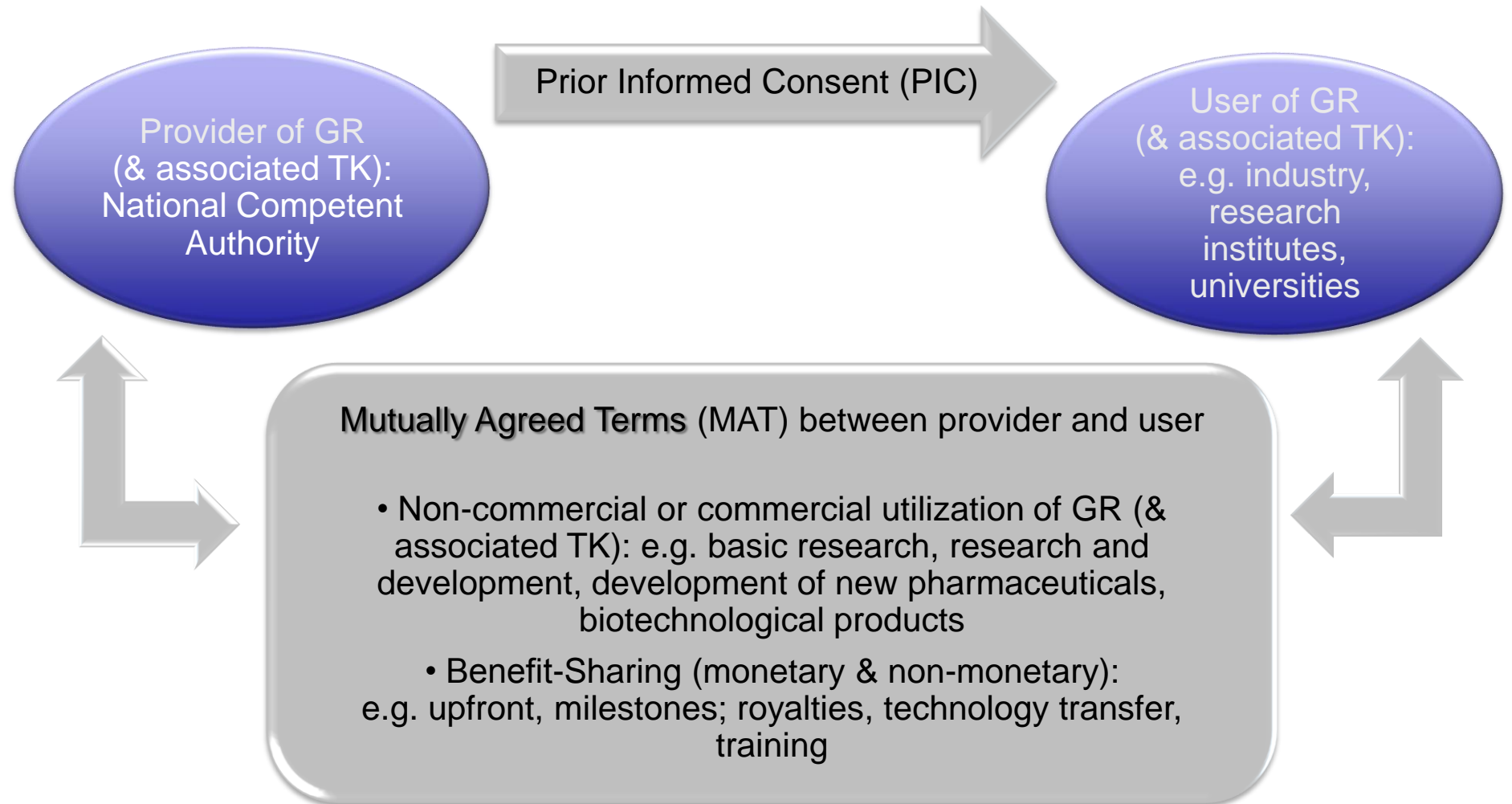
“Logic” of CBD regarding Access regulations

„resource -rich,, countries shall facilitate the
access to genetic resources

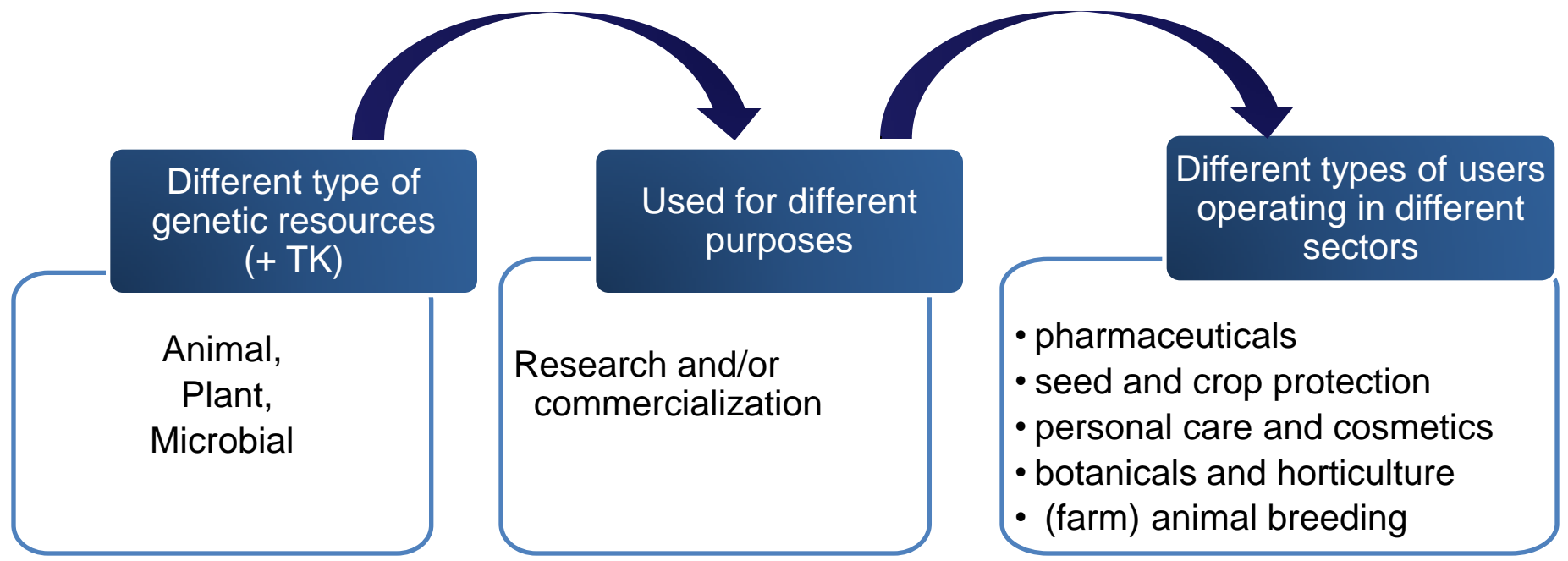


„technology-rich“ countries shall share benefits
arising from GR; facilitate the access to
technologies and means important for
conservation and use

ABS - in practice I



ABS – in practice II



A large number of actors involved, rarely one provider and one user (e.g. intermediaries)

ABS in practice – forest related case study

The use of **Prostratin** extracted from the bark and stemwood of the **mamala tree** (*Homalanthus nutans*) found in Samoa, to increase the efficiency of AIDS fighting drugs.



Use of mamala tree to cure AIDS

Background:

A researcher of UC Berkeley was taught by two traditional healers how to use the bark of the mamala tree to treat patients with infectious diseases, such as hepatitis. Subsequent experiments showed that the active component may be effective in fighting the HIV virus.

Actors involved:

- Providers: The Samoan Government, villagers and healers who taught the researchers how to use the plant
- Users: US National Cancer Institute (NCI), AIDS Research Alliance of America, University of California, Berkeley

Use of mamala tree to cure AIDS

How the genetic resource is used:

- The selected gene is extracted from the tree to develop a drug which could help increase the efficiency of AIDS fighting drugs. The gene is to be cloned in order to produce a stable supply of prostratin.

ABS agreements:

- PIC: Permission was given by the Samoan govt, local chiefs and healers to the NCI, AIDS ARA, UC of Berkeley scientist to study medicinal plants in Samoa.
- MAT: Agreements signed ensuring that proceeds from any commercial revenues of Prostratin-derived drugs will be shared with the people of Samoa who helped discover the tree and its properties.

Use of mamala tree to cure AIDS

Examples of benefits provided for in the agreements:

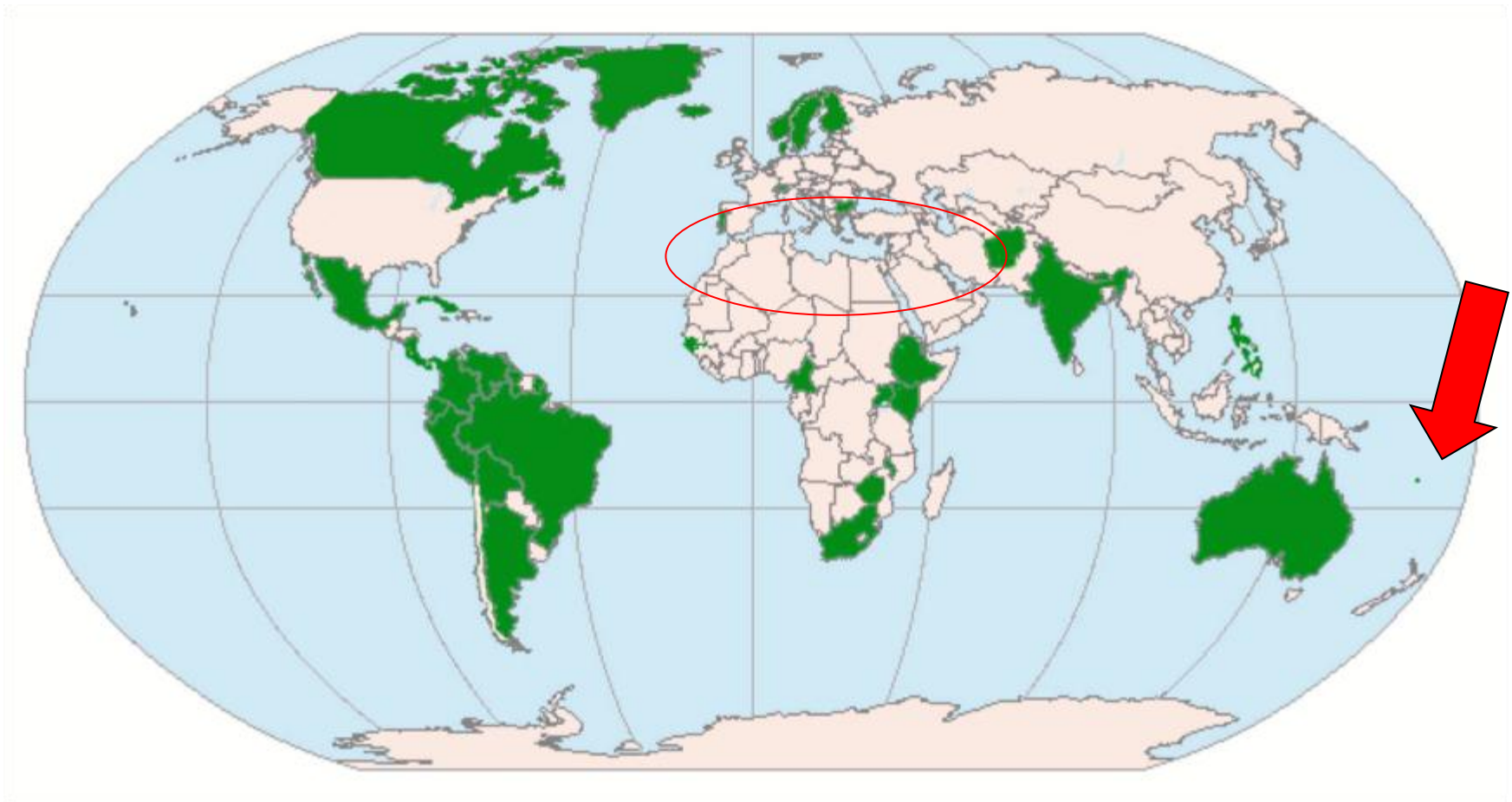
Non-monetary:

- Capacity-building presentations on genetic engineering given to local inhabitants in their native language.
- UC Berkeley to acknowledge intellectual contribution of Samoa to this research in publications etc. (traditional knowledge)

Monetary:

- \$480,000 supplied to local villages for schools, medical clinics, water supplies, trails, an aerial rain forest canopy walkway, and an endowment for the local rain forest.
- Share of the royalties (20 to 50%) with the Government of Samoa and the villages – still to come.

Map: ABS policy / provisions / laws in place 2010





The Nagoya Protocol on ABS

Need for legal certainty and transparency

- For providers: to ensure benefit-sharing once genetic resources leave the provider country
 - To prevent misappropriation of genetic resources and associated traditional knowledge
- For users: to provide for clear and transparent procedures for access to genetic resources

Nagoya Protocol on ABS

Objective



“.... the fair and equitable sharing of the benefits arising from the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding, thereby contributing to the conservation of biological diversity and the sustainable use of its components”

Nagoya Protocol on ABS

Scope of the Protocol

- Genetic resources **within the scope of Article 15 CBD** and the benefits arising from the utilization of such resources
- **Traditional knowledge associated with genetic resources within the scope of the CBD** and the benefits arising from the utilization of such knowledge

Core Elements:

- Access
- Fair and Equitable-sharing
- Indigenous and local communities
PIC / MAT & TK
- **Compliance new**



Core Elements: Compliance

Compliance with national ABS legislation

Obligation to take measures:

- To provide that genetic resources utilized within a Party's jurisdiction have been accessed in accordance with PIC and MAT
- To address situations of non-compliance

Obligation to cooperate in cases of alleged violation of domestic ABS legislation or regulatory requirements

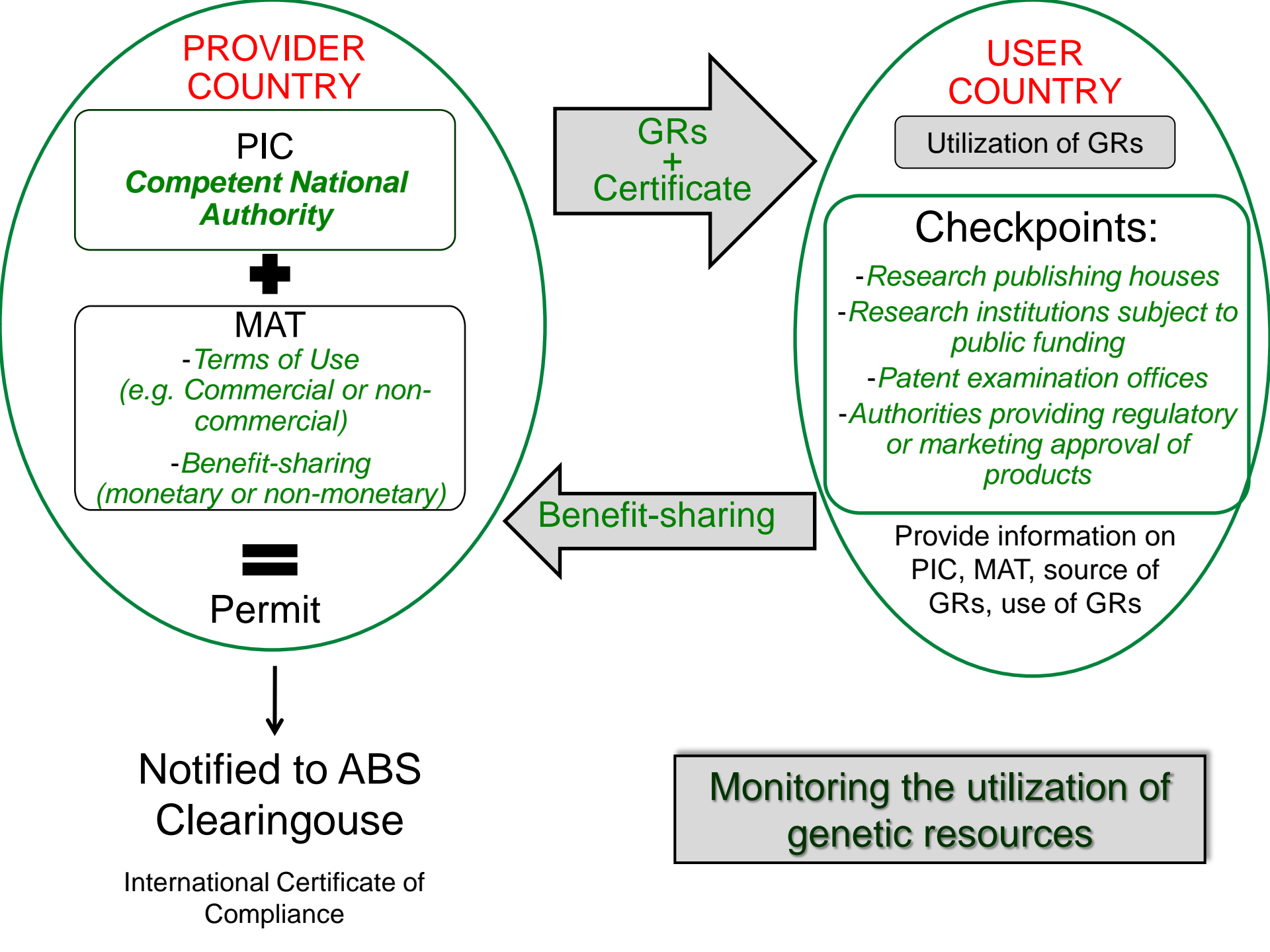
Core Elements: Compliance

Monitoring of genetic resources

Obligation to take measures to monitor the utilization of genetic resources:

- Designation of effective check points for collection of information at any stage of research, development, innovation, pre-commercialization or commercialization
- Encouraging reporting requirements in MAT
- Encouraging cost-effective communication tools

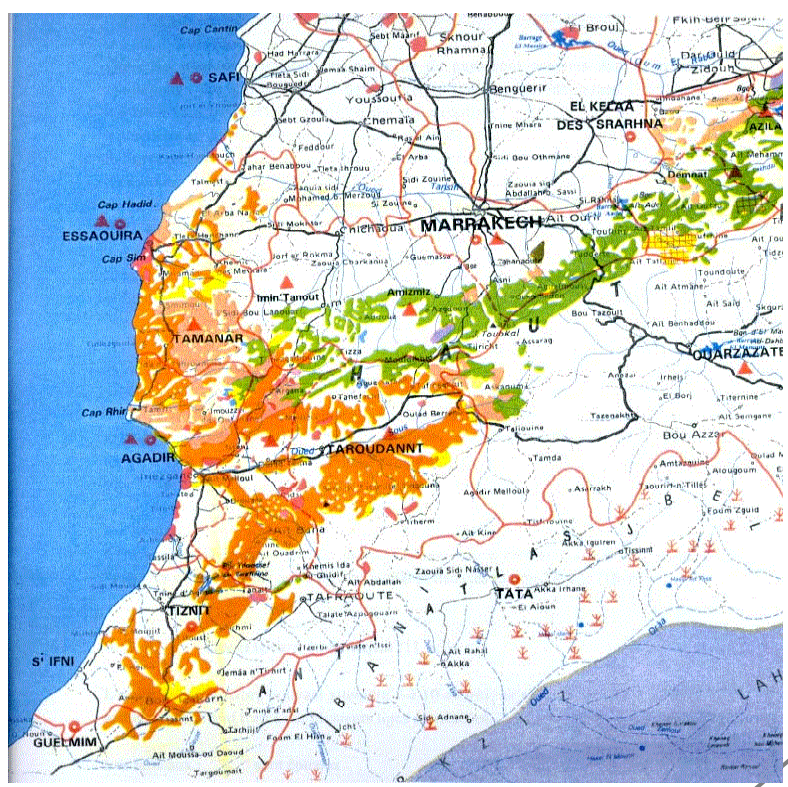
Internationally recognized certificate of compliance as evidence that PIC was obtained and MAT established



Next Steps

- Opening for **signature** by Parties to the CBD at UN Headquarters in New York from 2 February 2011 until 1 February 2012
- **Entry into force** on the ninetieth day after the date of deposit of the 50th instrument of ratification by Parties to the CBD
- Establishment of an Open-ended **Intergovernmental Committee** to prepare for the first meeting of COP/MOP
 - First meeting: **6 to 10 June 2011**

ABS in future: Argan in Morocco ?

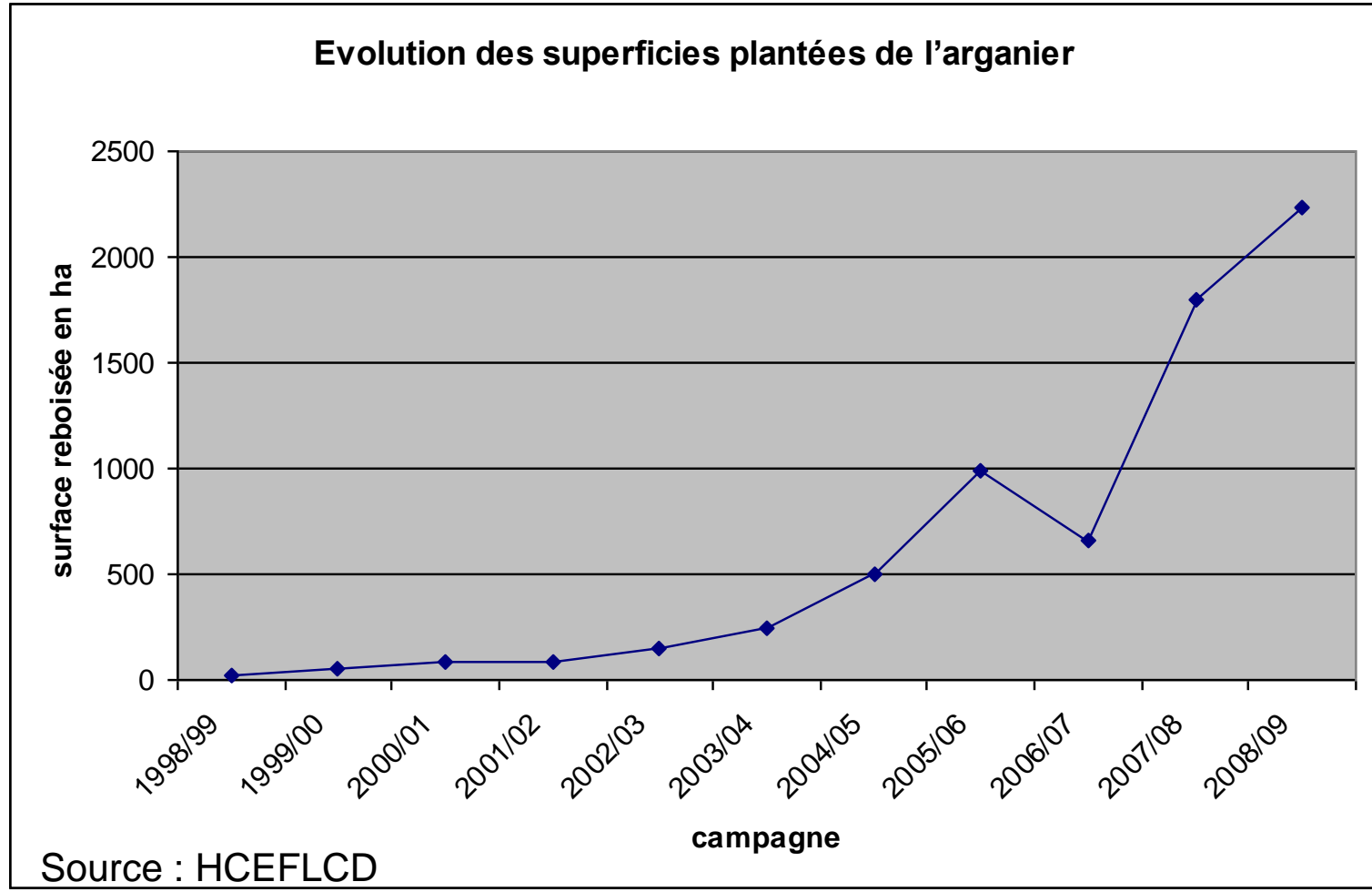


 **Arganeraie**

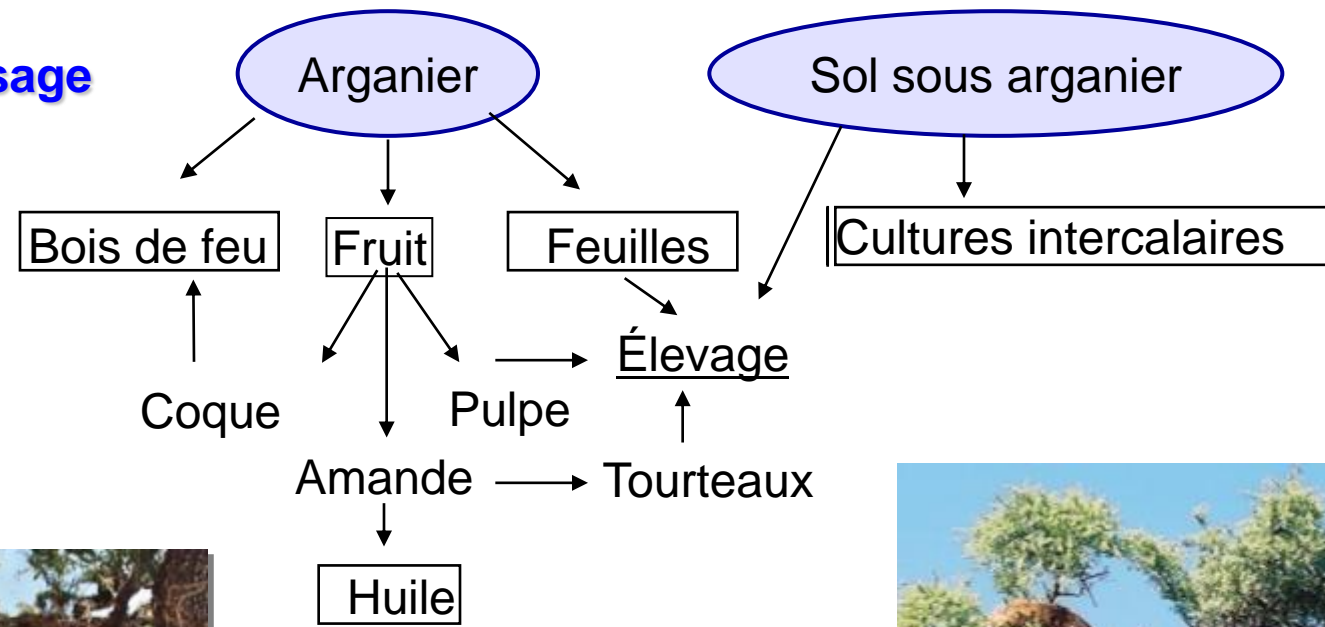


Argan – facts and figures

- Argan tree population: 8 -10 m, endemic to SW MAR, 150 - 250 years
~ 800,000 hectares in SW Morocco today (1.6 Mio ha in 1900)
~250 trees / ha hectare (Atlas region) ; 40 trees / ha in dry / desert region
- *Dahir* 1925: trees belong to govt,; utilisation right for LCs
(fruit collection, pasture, fuel wood, land use rights for agriculture)
- 10 - 30 kg / fruits / a per tree - > 38 kg = 1 l oil - > Total 2 500 - 4 000 t / a
- 1 l oil = 16 - 20 hs of labor force
~ 2000 people are working formally in the Argan oil sector (excl. collection)
~ 30 recognized women's cooperatives
- Price of Argan Oil : 35 DH (1996) ; 300 DH (2009) - >
turnover approx: 0, 7 - 1,2 bill DH
- Loss of 600 ha/a since a century - but increasing since late 90ies...



L'Arganier:
Arbre multiusage



Sources :

Phytomolécules :



Fruits :

- Pulpe
- Coques
- Amandon



Triterpènes

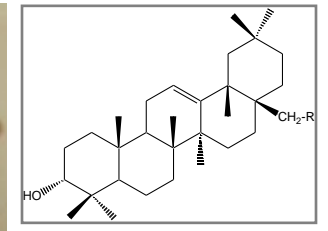
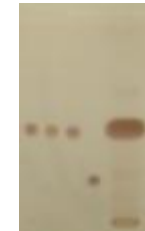


Huile

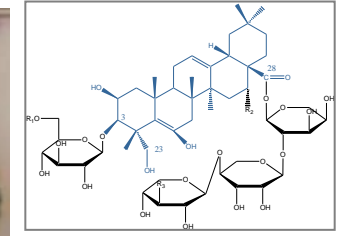
Pression



**Tourteaux : Protéines
Saponines**



Triterpènes



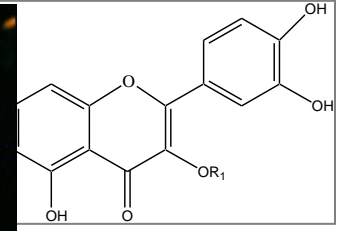
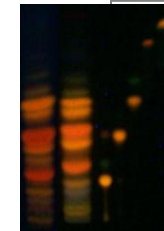
Saponines



Feuilles :



Polyphénols



**Flavon
oïdes**

Patents on the products of Argan (oil, leaves, presscake)

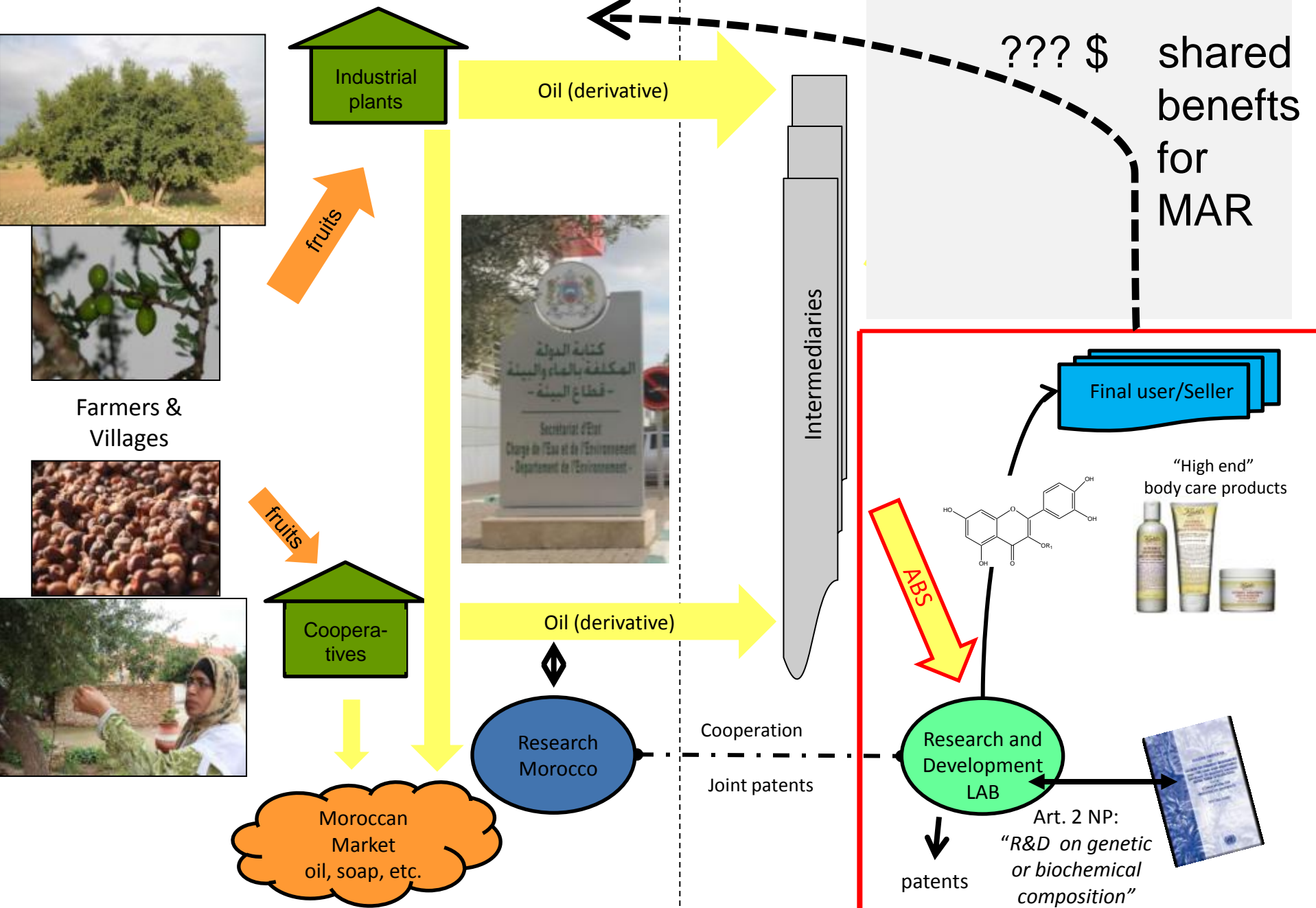
More than 40 patents

- *Cosmetic*
- *Therapeutic*
- *Food*
- *Agri-foodstuffs (seasoning)*
- *Production of seedlings*
- *Textile*
- *etc*



Morocco

Europe





Status quo: sourcing of BR / GR in uncertainty

- **Unclear IPR situation. Patents** mostly foreign owned (e.g. Cognis, Pierre Fabre, L'Oreal). As no disclosure requirement: not all patents known.
- Non-monetary “benefit” agreement between Cognis and the some cooperatives in place (**FairTade**). Suppliers not informed on use of oil.
- As **no ABS legislation to comply** with : No PIC / No MAT and no benefits shared with Moroccan Govt. e.g. HCEFLCD in charge of forestry
- After Nagoya - **national legal vacuum**: “Users” of Argan products waiting for Moroccan CNA / ABS regulation to cover *inter alia* forest related aspects. Pressure from NGOs -> withdrawal from supply chain

So what to do ?

- Establishing *asap* national ABS strategy and laws in consultation with :
 - all relevant ministries / departments
 - civil society / NGOs
 - research and academia
 - domestic private sector
- Screening / proofing existing, assessing potential of GR s for future supply chains
 - in dialogue with users
 - research institutions (R&D, Inventories, etc)
 - considering (forest) land tenure scheme
- Making use of current GEF funding windows to support ABS ratification and Implementation
 - 16 Mio US \$ NPIF
 - STAR 5 ntl. BIODIV allocation



Thank you

.....more on ABS and the
ABS Capacity Development
Initiative for Africa

-> *brochure “local to global”*

-> *www. abs-africa.info*

Instrument: *Issue specific workshop*

ABS and Forest WS, Nairobi, 05/2009

- 23 national/regional tandems of ABS Focal Points and Forest Focal Points and 24 resource persons met at UNEP to identify
 - aspects of national and international forest governance that may support ABS processes
 - potential benefits of considering ABS for the sustainable governance of forests
 - interfaces and linkages between forest governance and ABS at the national and international level
- Recommendations to the ABS community and the forest community at the national level and the international level (UNEP, UNFF, GEF)
- CISDL study: „[The Interface between Sustainable Forest Management and Access and Benefit Sharing: Outlining Potential Areas of Synergy](#)”
by: Jorge Cabrera, Olivier Rukundo and Frederic Perron-Welch
 - Analysis of potential links between international forest instruments and prospective international ABS protocol
 - Analysis of synergies between forest and ABS measures in selected countries



Forests deserve special attention for ABS in Africa:

- Forests harbor the large majority of Africa's terrestrial genetic resources.
- Forests fall into separate categories of land tenure. Existing forest regulations address non-timber forest products as commodities and not as "ABS-eligible" genetic resources. Land tenure systems therefore require special consideration for designing appropriate and practical **A** and **BS** schemes.



Thematic Program Elements

Ensuring complementarity of ABS and SFM

- Forest governance and ABS have so far been two separate processes. Participants examined access rights, valorisation, certification and trade, and identified how these can contribute to implementing ABS policies.



Learning from NFPs: stakeholder involvement

- NFPs are socio-political dialogues that involve all relevant stakeholders. Participants discussed how stakeholders may be identified and involved in decision-making, and how conflicting interests may be dealt with.

Regional processes to improve forest governance: Lessons for ABS

- FLEGT is high on the agenda in many regional and international processes. Issues like legality assurance systems, participatory approaches and TFRK were examined with the aim of further developing ideas to support the negotiations of the ABS regime.

1. Key Findings

- ABS and forest management are inextricably linked. However existing legislation relating to forests and the environment do not sufficiently address the issue of ABS. This is as a result of the lack of linkages between ABS and forestry legal mechanisms in many African countries.
- There is a low level of mutual awareness and stakeholder participation on both ABS and forestry issues. There is therefore a need to develop capacity at different levels.
- There is a need to develop/implement legal provisions as well as tracking and monitoring systems that address ABS and forestry issues.
- Some genetic resources and traditional knowledge are shared among countries and communities. This requires national and regional strategies to deal with ABS and forest management.

2. Recommendations to the ABS Community

The ABS Community should:

- Put in place communication strategies adapted to reaching out to all users and custodians of biological resources that may be subject to ABS.
- Make use of the existing body of knowledge and experience in the forestry sector in implementing ABS.
- Extend capacity building on ABS to all stakeholders.
- Clarify benefit sharing modalities to all stakeholders.
- Develop appropriate and clear ABS policies and legislation complementary to forest policies and legislation.

3. Recommendations to the Forestry Community

The forestry community should:

- Integrate ABS issues into forest policy and legislation.
- Build capacity within the forest community to address ABS issues in forest legislation and implementation.
- Put in place a communication strategy on relevant forest issues to the ABS community.
- Identify potential values of biological resources and TK for income generation under ABS.
- Explore the potential of including ABS aspects within licensing schemes such as forest certification.
- Integrate ABS concepts in technical and professional programs

4. Recommendations to the National Level

- Develop, harmonize and enforce legislation on ABS and forestry.
- Develop and implement a strategy for research, capacity building, communication, awareness raising and information sharing on ABS, forestry and their linkages.
- Develop and implement a funding mechanism for sustainable ABS and forestry activities.
- Ensure full participation of all stakeholders including women, youth and other vulnerable groups in ABS and forestry activities.
- Put in place mechanisms to facilitate the mutual briefing of ABS and forestry focal points before attending local and international meetings.
- Clarify how ABS functions under different land tenure systems.
- Establish clear modalities on access and benefit sharing including conflict prevention and resolution.
- Conduct specialized training for monitoring and enforcement.

5. Recommendations to the International Level

- Involve **regional and subregional organizations** in the organizing of workshops and high level segment meetings for ABS and UNFF focal points
- UNEP should ensure that there is a level of coordination between the UNFF and ABS processes and that linkages are made between these processes and REDD.
- Undertake a study by independent institutions (for example the Fridjof Nansen Institute) on the linkages between ABS and the non-legally binding instruments of the UNFF to enrich the ongoing negotiations towards an IR on ABS and under UNFF.
- As cooperation between the SUNFF and SCBD covers ABS at the very margins, SCBD and SUNFF should actively participate in the relevant meetings of the other forum and take, where appropriate, the floor to raise awareness about interfaces and possible conflicts that may arise
- Put in place sustainable financing mechanisms (ex GEF or other donors) to support african countries in the implementation of ABS recommendations