

**Innovation for whom?
The 2030 Agenda and the Brazilian system on access and benefit-sharing of genetic heritage (ABS)**

Amanda Barroso Lima, Master's Candidate, University of Brasília (corresponding author)

blima.amanda@gmail.com

Centro de Desenvolvimento Sustentável / Universidade de Brasília

+55 61 3107-6001

Campus Universitário Darcy Ribeiro. Gleba A, Bloco C. Asa Norte, 70.904-970

Brasília-DF

Beatriz Abreu dos Santos, Master's Candidate, University of Brasília

Isadora Cardoso Vasconcelos, BA Political Science, University of Brasília

Introduction

Brazilian National Congress has approved the Law No. 13.123 of 20 May 2015¹ on access and benefit-sharing (ABS) of genetic heritage² and associated traditional knowledge. This was a long time expected act, since it was considered a first step towards the ratification of the Nagoya Protocol by Brazil. Although by 2016 the Protocol has not been ratified, the Decree No. 8.772-2016³ regulates some essential points of the above mentioned law. It has entered into force in May 2016. Due to the approval of this decree and the law itself, Brazilian NGOs and civil society organizations foresee some regressions in terms of ensuring indigenous and traditional peoples rights and preserving their traditional knowledge associated with genetic resources (ISA 2015a).

Also in 2015, together with the international community, Brazilian Government agreed on a new element in the policy arena aimed at contributing to sustainable development in general and the biodiversity agenda in particular: the 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs). Multilateral environmental agreements, such as the Convention on Biological Diversity (CBD), have a key role in enhancing the appropriate achievement of the SDGs respecting specific circumstances of each Member-State. This new development Agenda points out in its targets 2.5 and 15.6 that fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge is crucial for ensuring sustainable development, particularly in countries where socio-biodiversity is a great issue (UNGA 2015).

In this sense, the implementation of CBD measures contributes to the operation of mechanisms for implementing the SDGs or Global Goals (UNEP 2016). Not only CBD, but the achievement of the SDGs require enhanced synergies and better coordination and cooperation between several multilateral environmental agreements in the national level. The incoherence between environmental, social and economic policies could be harmful for countries efforts on pursuing sustainable development (Ibid 2015). Considering the "leave no one behind" principle of the 2030 Agenda, this article seeks to explore sociopolitical and environmental implications of the new Brazilian legal framework on ABS, regarding the impacts it could have over traditional knowledge providers, especially indigenous peoples.

¹Acces on May 27, 2016, http://www.planalto.gov.br/ccivil_03/ Ato2015-2018/2015/Lei/L13123.htm.

²The term "genetic resources" used in the CBD was modified to "genetic heritage" by the Brazilian Constitution. The MP defined the term, stressing the aspect of national sovereignty over these resources (Smith, 2013, 192).

³Acces on May 27, 2016, http://www.planalto.gov.br/ccivil_03/ Ato2015-2018/2016/Decreto/D8772.htm

The question that arises is: how to conciliate the use of biodiversity through the access of traditional knowledge with preservation of natural resources and indigenous and traditional peoples rights and cultures while fostering innovation and development? From a socio-environmental point of view, the 2030 Agenda and the SDGs bring a new opportunity for identifying trade-offs and reconcile the new Brazilian legal framework on ABS with related internationally multilateral agreements on fair and equitable sharing of benefits.

This paper will also rely its analysis on the debate about the building process of the Brazilian ABS system, exploring consultative and decision-making instances. This article will also prognosticate possible contentious scenarios involving associated traditional knowledge providers interests (indigenous peoples, *quilombolas*⁴, traditional farmers, etc.) and its users (academia, industry, agribusiness, research institutions, etc.) by analyzing the law and its decree wording. While mapping some of the themes in dispute along the process, the article identifies who is being left out of the opportunities given by the Brazilian national regimentation on ABS and discusses how this could impact Brazilian efforts for reaching some SDGs targets in the next 15 years.

The development of the ABS system of genetic heritage in Brazil

To the date, only one indigenous representative was elected federal deputy for the state of Rio de Janeiro in 1982. In Brazil there are more than 240 indigenous peoples who number 896,917 people according to the last IBGE demographic census carried out in 2010. Without major political indigenous representatives, some Brazilian NGOs⁵ that work with socio-environmental issues play an important role while advocating in favor of indigenous interests and rights in the national political scenario. This also happened in the dispute over the legal framework on access and benefit sharing of Brazilian genetic heritage and associated traditional knowledge for protecting and using the country's biodiversity.

Brazil is a megadiverse country and one of the richest in terms of biodiversity. Since 1994, there have been several initiatives to regulate the access of Brazilian genetic resources and associated traditional knowledge and only in 2015 a law was approved. Until then, the regulation on ABS in Brazil was the CBD (ratified and incorporated into national law by means of the Decree No. 2519/1998), the International Treaty on Plant Genetic Resources for Food and Agriculture - ITPGRFA and their implementation instruments, and the Provisional Measure (*Medida Provisória* - MP) No. 2186-16, passed by the federal government in August 23, 2001⁶.

This MP used to regulate all procedures regarding access to and benefit sharing of genetic heritage and associated traditional knowledge until 2015. Since the first year the MP came into force, in 2001, it suffered 16 editions by a series of complementary legal measures that were approved for clarifying the original terms and scope. This necessity for additional resolutions and decrees created some controversy and negative reactions from some sectors - mostly the research sector and private companies, who claimed that the bureaucracy hindered their work as users of genetic heritage and associated traditional knowledge.

⁴ *Quilombolas* are inhabitants of a *quilombo* (the word for "settlement" in the Angolan language of Kimbundu) in Brazil. They are the descendants of Afro-Brazilian slaves who escaped from slavery and hid in the Brazilian territory until abolition in 1888. Tucked into remote pockets, for many decades *quilombolas* manage to stay far from official sight. In the 1960's during the government's effort in occupy the Amazon region, many *quilombos* were discovered.

⁵ Such as Instituto Socioambiental (ISA) and Instituto Sociedade, População e Natureza (ISPAN).

⁶ Access on May 27, 2016, http://www.planalto.gov.br/ccivil_03/MPV/2186-16.htm

The MP was indeed supposed to be a provisional legal solution: back in 2000, a contract signed between Bioamazonia and Novartis to allow access and research of the genetic heritage in Brazilian Amazon biome provoked a strong opposition from some sectors. The agreement and its terms were further judged as illegal and illegitimate since the Amazon biodiversity, which is considered a public good, was subject of private negotiations. The MP was then created to fill the legal vacuum of the regulation of access and benefit sharing of genetic heritage and associated traditional knowledge of Brazil's mega biodiversity.

In that context, some socio-environmentalist NGOs collaborated with the federal government in defining an integrated vision for the protection of Brazilian genetic heritage and associated traditional knowledge in order to elaborate the text which would regulate the subject. However, the final text of the MP was not considered a success when put in practice. Socio-environmentalist advocates point out some problems on the MP implementation phase: Brazilian Congress discussion about the need for a solid and permanent bill on biodiversity was interrupted, researches about genetic resources were stopped and, unfortunately, the MP did not serve well indigenous and traditional communities rights (Araújo 2002, 91).

The MP established the Genetic Heritage Management Council (*Conselho de Gestão do Patrimônio Genético - CGEN*)⁷, a Council for managing Brazilian genetic heritage and associated traditional knowledge related subjects. According to the norms of the MP, depending where the resources were collected (i.e., indigenous territory, protected area or private land), different agents could be called to take part in the authorization granting or denying prior informed consent. Hence there were different modalities of authorization granted by CGEN and accredited institutions, according to the type of access (the genetic heritage components, associated traditional knowledge or both) and the purpose of access (scientific research, technological development or bioprospecting) (Smith 2013, 191). The MP created a division between (i) authorization to access genetic resource and (ii) authorization to access associated traditional knowledge and benefit sharing contracts.

The Brazilian Institute for the Environment and Renewable Natural Resources (*Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis - IBAMA*) was the responsible authority for allowing users - mostly private companies and research institutions - access to genetic heritage aimed at scientific research with no potential economic use and which did not involve associated traditional knowledge. Otherwise CGEN was the responsible for granting the authorization.

However, if the accessed genetic heritage had some associated traditional knowledge provided by indigenous peoples or traditional communities, the authorization of access depended on their previous informed consent. Only after that CGEN could grant the authorization. If this request to access also involved a potential economic use, a benefit sharing agreement contract should be signed between the user and the traditional knowledge provider.

The MP defined access to associated traditional knowledge as “acquisition of information on individual or collective knowledge or practice associated to the genetic heritage, from an indigenous community or local community for scientific research, technological development or

⁷CGEN has deliberative and normative character. During the period of validity of the MP, there were no effective participation of civil society in the Council, except as a guest without voting rights (Ferreira and Clementino 2010).

bioprospecting purposes aiming at industrial applications or from other related nature”⁸. A central concept to this term was “community”. The norm defined local community as “a human group, including descendants of Quilombo communities, differentiated by its cultural conditions, which is traditionally organized along successive generations and having its own customs and preserves its social and economic institutions”⁹.

Nevertheless, in practice, the limits for defining what is a community and what is not is very blurred and created a series of distortions is the Brazilian ABS regime. After all, many of these traditional communities does not have a clear hierarchical structure, they may be composed with different groups dispersed in Brazilian territory¹⁰. So, how is it possible to identify the community entity responsible for the last word about the prior informed consent? A trickier question: how is it possible to identify the indigenous or traditional peoples who are the original traditional knowledge holders of a genetic heritage and guarantee a fair benefit sharing within such a broad definition?

Accordingly to the MP, the way of identifying genetic heritage providers in Brazil was through formal proof of land ownership. Socio-environmentalist points out that this criterion favors the owners of private property or the purchase of land by companies using genetic heritage in detriment of indigenous peoples and other traditional communities, many of them threatened by landless securities (Smith 2013, 194). Moreover, the MP did not require the provider to apply the shared benefits in favor of conservation and sustainable use of components of biological diversity, as established in the CBD. So, while maintaining vulnerabilities of the indigenous peoples and other traditional communities - the most common traditional knowledge providers of genetic heritage and also the most interested in promoting sustainable forms of use of biodiversity (Ibid 2013) - the MP presented serious flaws in its aim of protecting Brazilian socio biodiversity.

The regulation lasted for 14 years, during which time 110 ABS contracts were signed, of which only one benefited indigenous peoples (Távora et al. 2015). Additionally, a study carried by CGEN between 2004 and 2012 shows that the number of benefit sharing contracts in 2012 was higher than in the 2004-2011 period (Schmidt 2012). Other data shows the difficulties posed by the provisional measure in terms of the average length for receiving a prior authorization to access genetic heritage or associated traditional knowledge, which was around 1,5 years (Távora et al. 2015).

These bureaucratic aspects certainly discouraged research institutions and other user sectors to seek innovation through legal mechanisms and maintain the virtuous cycle for keep preserving socio-biodiversity, which involves the use of genetic heritage, the development of innovative products and the fair and just benefit sharing for traditional knowledge providers.

In consequence of this bureaucratic structure which did not favor neither biodiversity users nor associated traditional knowledge providers, illegal alternatives were practiced by users in order to access biodiversity genetic heritage and associated traditional knowledge. Many researchers, for example, were fined for the duration of the MP, but only 0.098% of the fines were in fact paid, what shows the institutional weakness of the regulation as well as of its violation and administrative sanctions mechanisms (Ibid 2015).

⁸Medida Provisoria, Article 7(V)

⁹Ibid at Article 7(III).

¹⁰Maira Smith (National Indigenous Foundation, FUNAI, of the Ministry of Justice of Brazil), interviewed by the authors, June 17, 2016

In spite of all the criticism, the Brazilian ABS system was being improved gradually, especially in the last years of the provisional measure validity. Also, the analysis of the contracts revealed that the wording of the juridical instruments had shown higher quality. The reactivation of the debate on the need for a more solid law did not build on these advances, but actually rearranged the system from the beginning (Schmidt 2012).

Innovation for whom? Leaving no one behind on the new Brazilian ABS legal system

In 2011, the debate on the need for a new legal framework gained space in the political arena. The rising number of applied fines during the MP vigency was certainly a factor which impelled user sectors to pressure Brazilian government and legislative body to design a more flexible and efficient legal framework on ABS. Thus, in that year, social and environmental ministries and developmentalist and economic ministries already in dispute years before, finally reached an agreement and a new bill was sent to the Brazilian presidency for its approval. The first draft of the law was proposed by the Executive Branch in 2014, law project No. 7735/2014.

The federal government did not promote open consultations on the terms of the law and opted to send the draft to Congress on an urgent basis. It is known that the text of the approved law was built upon contributions of the pharmaceutical, agribusiness, cosmetic and other industrial sectors. For example, the Group Farma Brasil, which represents the pharmaceutical sector in the country, played a decisive role during the legislative negotiation of the legal framework within National Congress where they closely advised the rapporteur of the bill¹¹.

On the other hand, the traditional knowledge holders did not have the resources or appropriated space to engage in the debate. During the design of the new legal framework, socio-environmentalist advocates complained that indigenous and traditional peoples were not properly consulted, especially in what refers to defining mechanisms of equitable and just benefit sharing (ISA 2015b).

On top of that, it is known that the ABS thematic is perceived as unclear to most of the traditional knowledge holders, who mostly rely on Brazilian NGOs and civil society organizations for advocating for their interests. It is possible to say that the extremely technical nature and language used in the debate about the ABS system also acted as impediment for a more direct and effective participation of these stakeholders.

Although the construction of the law did not properly hear traditional people and communities on their interests, a process of training and discussion was organized for the elaboration of the decree involving them. The Federal Government, some NGOs and representatives of indigenous organizations, traditional communities and family farming participated in a number of regional meetings on the decree, which led to the creation of a working group composed by the Federal Government, the National Commission for the Sustainable Development of Traditional Peoples and Communities - CNPCT, the Sustainable Rural Development Council - CONDRAF and the Articulation of Indigenous Peoples of Brazil - APIB. This working group was indicated representatives and organized the regional meetings, as well as elaborated the methodologies and materials for the capacity building of these peoples and communities.

¹¹Nurit Rachel Bensusan (Instituto Socioambiental, ISA, civil society organization), interviewed by the authors, June 03, 2016.

The mentioned Law No. 13.123-2015 and its Decree No. 8.772-2016 were conceived to fill in the operational gaps of the MP and to provide legal certainty for users, fair and equitable benefits for traditional knowledge providers of genetic heritage and foster innovation through sustainable practices. The new legal framework is in alignment with ILO Indigenous and Tribal Peoples Convention n. 169 ratified by Brazil, and the United Nations Declaration on the Rights of Indigenous Peoples.

In the new legal framework, users need prior informed consent from, at least, one traditional community, including indigenous ones, in order to access its associated traditional knowledge. Additionally, the framework disposes that any traditional knowledge associated with genetic heritage is considered as collective in nature, even if only one individual from a traditional community or indigenous people detains it.

The only exception for the need of prior informed consent is when users claim unidentified origin for the associated traditional knowledge. In this case, the legal framework creates a very interesting innovation. It obliges the monetary benefit sharing modality in which the users should sign a contract with the Brazilian Federal Government and pay 1%¹² of the total amount of their net revenue received with the commercialization of the finished product or reproductive materials for the National Fund of Benefit Sharing (*Fundo Nacional de Repartição de Benefícios* - FNRB).

This is claimed a relevant gain considering the previous MP, because these funds are also aimed at protecting and valuing indigenous and traditional communities even when the traditional knowledge is not tied to a specific group or community. Furthermore this measure creates incentives to users identify a holder of that traditional knowledge, whereas the fees required when the associated traditional knowledge has no identifiable origin can be higher than when it is identifiable.

After the approval of the law in 2015, there were attempts to consult indigenous peoples and traditional communities about its regulamentation, which would come in the decree. However, consultations took place before the draft version of the decree was publicised by the Civil House of the Presidency in December 2015. Some representatives of civil society organizations and indigenous peoples did not attend to the last official consultation as a means of protest¹³. The diagnosis of socio-environmental organizations is that the space for participating in the elaboration of the law regulation mechanism was exiguous (ISA 2015c).

Regarding the conceptual fragmentation between genetic heritage and associated traditional knowledge, the new legal framework only considers these two aspects in separate for agricultural and food products. This understanding is supported by the International Treaty on Plant Genetic Resources for Food and Agriculture, ratified by Brazil, which sets that farmers and traditional peoples do not have the right of previous consent regarding genetic resources for food and agriculture purposes, since agricultural and food species are considered as collectively developed.

The CBD presents a wider notion of traditional knowledge associated with biodiversity, that takes into account the practices, innovations and knowledge developed by indigenous peoples and relevant traditional populations for conservation and sustainable use of biological diversity (Santilli 2005) at all levels (intraspecific, interspecific and ecosystem).

¹² In case of damage to competitiveness, proven in the terms of the decree, the percentage can be reduced, not necessarily, to 0,1% until the existence of the damage, returning to 1% in the end.

¹³ Nurit Rachel Bensusan (Instituto Socioambiental, ISA), interviewed by the authors, June 03, 2016.

Although this fragmented understanding the Brazilian legal framework presents, it also sets mechanisms that inhibit illegal practices, such as the article 40 of the Decree No. 8.772-2016. It establishes as an irremediable irregularity the registration of access to genetic heritage which alleges there is no associated traditional knowledge or that is of unidentified origin when actually its origin and existence can be identified. Additionally, it is considered a crime to register the access to associated traditional knowledge as if it was an access to genetic heritage, according to the Brazilian Criminal Code article n. 299.

Either way, for agricultural purposes, article 9 of Law No. 13.123-2015 exempts the need for prior informed consent to register the access to genetic heritage of traditional local variety or creole or locally adapted race, as these varieties are considered as associated to traditional knowledge of unidentified origin. Also, article 54 of the decree exempts from benefit sharing the economic exploitation of reproductive material from access to genetic heritage or associated traditional knowledge for agricultural activities purposes and intended solely for the generation of finished products.

Although these exemptions of the law and decree, the creation of FNRB represents a great step towards assuring traditional peoples rights. Regarding the allocation of its resources, registered accesses which allege the existence of associated traditional knowledge will be exclusively for the actions, activities and projects for the benefit of traditional knowledge holders. According to the Fund's objectives, when the benefits come from the access to genetic heritage, they can also serve traditional communities interests.

Despite the critics, the previous MP functioned in a command-control logic, demanding previous consent of providers of traditional knowledge associated with genetic heritage for permitting the use of them. Also, an authorization emitted by CGEN was a requirement prior to any formal access. These bureaucratic processes were pointed as key factors which fostered biopiracy and illegal research and development practices in bioprospecting fields (Távora et al. 2015). But they were also pointed as a necessary factor for guaranteeing fair mechanisms of benefit sharing with indigenous and traditional peoples, the most vulnerable stakeholder in dispute¹⁴, although all mentioned difficulties in implementing the MP.

The new ABS system functions in a more flexible logic. The potential users ought to register as much details as possible of the access and its purposes. Once the register is made, users can start the declared access. Although CGEN must verify the registered information of each access, it is still unknown how long the compliance process and, if necessary, the adequate sanction will take. According to the new law, through its article number 37, not only CGEN will verify the information and the consent, but it will also be made by institutions of defense of indigenous people and communities, FUNAI, Palmares, and the Public Defense. Even so, the uncertainty may cause a great concern for traditional peoples since it may threatens their right to say “no” to any access to their knowledge. Even if the right to prior and informed consent is guaranteed by the legal framework, the timing of users to access and develop products derived from sociobiodiversity may not coincide with the bureaucratic speed.

In short, the analysis of the wording of the most prominent legal mechanisms of the new Brazilian ABS system suggests some possible contentious scenarios involving associated traditional knowledge providers and users. In this scenario, the title question, “Innovation for whom?”, serves as a remainder of these disparities.

¹⁴ Nurit Rachel Bensusan, interviewed by the authors, June 03, 2016.

In the contemporary society, people are used to think about innovation as what scientists do in a controlled environment or as new products of hard and soft technology. From this paper perspective, indigenous peoples generate innovation since nature itself is a continuous process of innovation that these peoples understand better than anyone else. In a world threatened by unsustainable anthropogenic activities (Wackernagel 1998), diversity of knowledge and natural resources are key for developing better responses for the new challenges - and this should be always remembered when discussing ABS terms.

Brazil was one of the most prominent actors in the international arena to advocate to the regulation of the free access to genetic resource. The knowledge stemmed from the free access of its plants, for example, resulted in 94.2% of the patent documents related to native Brazilian plants owned by foreign applicants - mostly big and foreigner companies (Moreira et al. 2006, 38). Little or no return was being sent to Brazil nor the providers of the traditional knowledge. Brazil has yet a limited capacity to generate income from the use of its biodiversity. Conciliating the economic interest on the use of biodiversity and the preservation and valorization of traditional knowledge has been a remarkably challenge. The new legal framework was clearly designed to address it.

The 2030 Agenda in practice: policy coherence within the Brazilian ABS system

Recently, the country committed on leaving no one behind in its path for sustainable development when agreed on the 2030 Agenda. Biodiversity and ecosystems feature prominently in the 2030 Agenda. It is worth noting that the target 15.9 directly links biodiversity to the top priority of the 2030 Agenda - leave no one behind - by calling for the “integration of biodiversity and ecosystem values into national and local planning, development processes, poverty reduction strategies and accounts” (UNGA 2015).

The issue of fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge is pointed out in the Goals 2 - especially target 2.5¹⁵ - and Goal 15 - especially target 15.6¹⁶. These mentions reinforce the interlinkages between guaranteeing fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge and the efforts for achieving and ensuring sustainable development, particularly in countries where socio-biodiversity is a great issue. Biodiversity and ecosystems are also integrated to other key goals, especially Goals 1, 6 and 12.

The implementation phase of the SDGs will provide a tremendous opportunity to mainstream biodiversity and its sustainable use in key national priorities. And at the same time, it will help countries achieve the objectives of the CBD’s Strategic Plan for Biodiversity 2011-2020 and its Aichi Biodiversity Targets. Accordingly, the new Brazilian ABS system should attend the Aichi

¹⁵ “2.5 - By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge, as internationally agreed” (UNGA 2015).

¹⁶ “15.6 - Promote fair and equitable sharing of the benefits arising from the utilization of genetic resources and promote appropriate access to such resources, as internationally agreed” (UNGA 2015).

Biodiversity Targets - especially target 16¹⁷ -, the referred SDGs, the Nagoya Protocol - once it is ratified, and the ILO Convention n. 169 - ratified by Brazil. However, socio-environmentalists point out a series of obstacles established by this new ABS legal framework especially regarding the fairness and equity of the benefit sharing procedures that need to be followed by users of genetic heritage and associated traditional knowledge.

First of all, the resistance of Brazilian ruralists representatives in the Congress, influenced by pharmaceutical and agribusiness sectors, is one of the main reasons to be pointed out by socio-environmentalists for the non ratification of the Nagoya Protocol (Smith 2013). Second, while the Law No. 13.123-2015 may have provided solutions to important issues, it exempts many modalities of access of sharing benefits, as well as leaves intermediary products free of benefit sharing. Another problem is the fact that multiple and distinct accesses are not cumulatively considered for the calculation of the benefit sharing. Also, the regulatory decree draws up a very interpretative list of tests, exams and activities that would not configure access to genetic resources, such as purification of fixed oils that results in a product whose characteristics are identical to those of the raw material originates¹⁸.

The socio-environmental NGOs argument that the biodiversity conservation depends on the recognition of the essential contributions of indigenous and traditional peoples. If these peoples have no assurance the knowledge they extracted and developed from living with nature are valuable, they will have less incentives to preserve nature given the economic pressure for income growth. In other words, it is important to ensure fair mechanisms of benefit sharing.

This is an enormous challenge considering that traditional peoples generally do not share worldviews, cultural and economic values similar to the urban-capitalist society ones. Thus, guaranteeing equitable and just benefit sharing is a central part for efficient and effective achievement of the mentioned SDGs targets, as well as for the fair compliance of Brazilian legal framework on ABS in order to benefit all involved parts in a balanced and sustainable way, be they the Brazilian Union, the traditional peoples or the users of such resources.

The SDG 17 includes target 17.14, to: “enhance policy coherence for sustainable development”. Like some of the other means of implementation set out in Goal 17, policy coherence for sustainable development involves processes and means, rather than ultimate outcomes. When defining a clear target on policy coherence, the 2030 Agenda help to foster commitment and make policy coherence part of the international accountability framework for the SDGs. In this sense, policy coherence for sustainable development is an approach and policy tool to integrate the economic, social, environmental and governance dimensions of sustainable development at all stages of domestic and international policy making (OECD 2016).

Regarding the political coherence between the Brazilian ABS system, the related international agreements and the 2030 Agenda, it is important, in order to guarantee the accomplishment of the SDGs and the implementation of fair mechanisms of benefit sharing, that national and local governments (1) foster synergies across economic, social and environmental policy areas; (2) identify and address the trade-offs and reconcile domestic policy objectives with internationally agreed objective, through a coherent policy action at multiple scales (UNEP 2015); and (3) address the spillovers of its domestic policies.

¹⁷ “Target 16 - By 2015, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization is in force and operational, consistent with national legislation.” (CBD 2010)

¹⁸ Maira Smith, interviewed by the authors, June 17, 2016.

In the context of traditional and indigenous rights to the benefits generated by their innovation and their effort to conserve the biodiversity, national governments must identify challenges, synergies and opportunities to protect the biodiversity and preserve traditional rights while adding value to their knowledge and means of life. Also, adding value to the conservancy of natural resources is from great importance to achieve SDG 1 - End Poverty in all its forms, and Target 2 from Aichi Biodiversity Targets - by 2020, biodiversity values have been integrated into national and local development and poverty reduction strategies. Brazil has already recognized the importance and the opportunities presented by the 2030 Agenda and has shown itself as a great ally on the effort to leave no one behind.

Conclusion

It is known the underrepresentation reality of indigenous and traditional peoples in politics can be an obstacle to the Brazilian commitment of leaving no one behind in the 2030 Agenda for Sustainable Development. The legal framework and concrete practices in public policies implemented in Brazil may not be, at first interpretation, fully consistent with the SDGs. Once the practical applications and first results of this legal framework appear, it will be possible to analyse if the critics brought in this article represented real concern, especially regarding guaranteeing traditional peoples rights and the nature conservancy. Either way, the Sustainable Development Goals present a great opportunity for aligning national policies with international agreements towards a more sustainable, diverse, inclusive and innovative world.

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